

Washington, Friday, May 22, 1953

# TITLE 5—ADMINISTRATIVE **PERSONNEL**

#### Chapter I—Civil Service Commission

PART 6-EXCEPTIONS FROM THE COMPETITIVE SERVICE

PART 24-FORMAL EDUCATION REQUIRE-MENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL AND PROFES-SIGNAL POSTTIONS

#### MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, the position listed below is excepted from the competitive service under Schedule C.

§ 6.302 State Department. \* \* (c) Office of the Assistant Secretary for Congressional Relations. (1) One Congressional Liaison Officer (House)

2. Effective upon publication in the FEDERAL REGISTER, certain positions in the Veterans' Administration which are now listed in Schedule A are transferred to Schedule C. Sections 6.122 (b) (1) and (2) and (c) (1) are revoked. Section 6.322 is added as follows:

§ 6.322 Veterans' Administration— (a) Office of the Administrator (1) One special assistant to the Administrator.

(2) One confidential assistant (private secretary) to the Administrator.

(b) Department of Medicine and Sur-(1) One confidential assistant (private secretary) to the Chief Medical Director.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440 March 31, 1953, 18 F. R. 1823)

3. The headnote to § 24.98 is amended to read as follows:

§ 24.98 Student Trainee, GS-2-GS-4, in the following codes: GS-490, Agricultural Technology; GS-408, Agriculture; GS-402, Biology; GS-1371, Cartography; GS-802, Engineering; GS-480, Fish Culture; GS-1521, Mathematics; GS-1341, Meteorology; GS-1311. Physical Science; GS-455, Range Conservation, GS-458, Soil Conservation; GS-402, Soil Science.

(Sec. 11, 58 Stat. 390; 5 U.S. C. 860)

[SEAL]

UNITED STATES CIVIL SERV-ICE COMMISSION. C. L. EDWARDS, Executive Director.

[F. R. Doc. 53-4501; Filed, May 21, 1953; 8:48 a. m.]

# TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 3, Further Amended]

PART 403-FEDERAL OLD-AGE AND SUR-VIVORS INSURANCE (1940-1950)

#### EVIDENCE AND PROCEDURES: UNDERPAYMENTS

Regulations No. 3, as amended (20 CFR 403.1 et seq.) is further amended as follows:

1. Section 403.601 (b) is amended by inserting the following new subparagraph (4), immediately after subparagraph (3) thereof.

§ 403.601 Overpayments and underpayments.

(b) Underpayments.

(4) If an underpayment or any part thereof cannot be adjusted under the provisions of subparagraph (2) or (3) of this paragraph, the amount of such underpayment or such part thereof shall be paid to the estate of the underpaid individual in the manner prescribed by § 403.408 (b) (3).

2. So much of § 403.702 as precedes paragraph (a) thereof is amended to read as follows:

§ 403.702 Supporting evidence as to right to receive benefits and lump sums. An applicant for benefits or a lump sum shall submit such evidence of eligibility as is specified in this section.

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Previously announced: Title 3 (\$1.75); Previously announced: Title 3 (\$1.75); Titles 4–5 (\$0.55); Title 7· Parts 1–20; (\$1.75); Title 9 (\$0.40); Titles 10–13 (\$0.40); Titles 10–13 (\$0.40); Title 17 (\$0.35); Title 18 (\$0.35); Title 19 (\$0.45); Title 20 (\$0.60); Title 24 (\$0.65); Title 25 (\$0.40); Title 26: Parts 170–182 (\$0.65), Parts 183–299 (\$1.75); Titles 28–29 (\$1.00); Titles 30–31 (\$0.65); Title 39 (\$1.00); Titles 40–42 (\$0.45); Title 49: Parts 1–70 (\$0.50), Parts 71–90 (\$0.45), Parts 91–164 (\$0.40) 164 (\$0.40)

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The Administration may, at any time, require additional evidence with regard to an individual's entitlement or with regard to the amount to be paid.

Whenever an applicant for benefits or a lump-sum death payment has submitted insufficient or no evidence of entitlement to such benefits or lump sum, the Administration will inform the applicant what evidence is necessary to establish entitlement and will request him to submit such evidence. The applicant's failure to submit such evidence shall be a basis for determining that the conditions of entitlement concerning which such evidence was requested have not been established.

The Administration may at any time require any individual, receiving, or claiming that he is entitled to receive, a benefit under title II of the act, either for himself or on behalf of another, to submit a written statement in the prescribed manner, certifying that no event has occurred which would cause such benefit to be terminated, or which would subject such benefit to deductions under the provisions of such title. The failure on the part of such individual to submit such statement properly executed, to the Administration, shall cause the suspension of such benefit.

Evidence in support of an application shall be filed at an office of the Bureau or with an employee of the Administration authorized to receive such evidence, or, in cases of persons who are not residing in the United States, it may be filed at an office maintained outside the United States by the United States Foreign Service. Such evidence may be submitted as part of the application form, if the form provides for its inclusion, or it may be submitted in addition to such form and in the manner indicated by the regulations in this part.

In connection with applications for annuities and lump sums under section 5 of the Railroad Retirement Act (see Subpart K) which are also applications for survivors benefits and lump sums under title II of the act, evidence developed and received by the Railroad Retirement Board, in support of claims under the Railroad Retirement Act which are later transferred to the Administration, may be used in determining entitlement or eligibility to benefits or lump sums payable under title II. Where a claim which has been completely adjudicated by the Railroad-Retirement Board is transferred from that agency to the Administration, the Administration may, after examination, adopt any determination made by the Railroad Retirement Board (except as to compensation or periods of service—see section 5 (£) (3) of the Railroad Retirement Act) or, in the light of the sufficiency of the supporting evidence or of new evidence which is introduced, may make such determination as shall be proper.

- 3. Section 403.706 (a) is amended by adding a new subparagraph (8) immediately after subparagraph (7) thereof to read as follows:
- § 403.706 Initial determination—(a) Determinations affecting benefits, lump sums, and wage records. \* \* \*
- (8) Applicant's failure to submit evadence. Whenever an applicant for benefits or lump-sum death payment has failed to submit evidence of entitlement to such benefits or lump-sum death payment, as may be requested by the Bureau pursuant to the provisions of § 403.702, the Bureau shall make an initial determination disallowing the applicant's claim for benefits or a lump-sum death payment. Such determination shall specify the conditions of entitlement which the applicant, through his failure to submit the requested evidence, has not established.
- 4. Section 403.704 is amended to read as follows:

§ 403.704 Withdrawal of applications and requests for wage record revisions. An individual may withdraw his application for benefits or for a lump sum, or his request for revision of wage records of the Administration, by filing written notice of such withdrawal prior to the Bureau's determination upon such application or request. Thereafter, further action will be taken only upon the filing of a new application or request.

(Sec. 1102, 49 Stat. 647, as amended; 42 U. S. C. 1302. Interprets or applies secs. 204, 205, 49 Stat. 624, as amended; 42 U. S. C. 404 405)

[SEAL]

W L. MITCHELL, Acting Commissioner of Social Security.

Approved: May 15, 1953.

OVETA CULP HOBBY, Secretary of Health, Education, and Welfare.

[F. R. Doc. 53-4490; Filed, May 21, 1953; 8:47 a. m.]

[Regs. No. 4, Further Amended]

PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950——)

EVIDENCE; UNDERPAYMENTS

Regulations No. 4, as amended (20 CFR, Cum. Sup., 404.1 et seq.) is further amended to read as follows:

1. Section 404.503 is amended by inserting the following new paragraph (d) immediately after paragraph (c) thereof.

§ 404.503 Underpayments. \* \* \*

(d) Payment to estates. If an underpayment or any part thereof cannot be adjusted under the provisions of paragraph (b) or (c) of this section, the

amount of such underpayment or such part thereof shall be paid to the estate of the underpaid individual in the manner prescribed by § 404.341.

2. Section 404.701 is amended to read as follows:

§ 404.701 Evidence as to right to receive monthly benefits and lump-sum death payments—(a) Evidence of eligibility. An applicant for monthly benefits or a lump-sum death payment shall submit such evidence of eligibility as is specified in this subpart. The Administration may at any time require additional evidence with regard to an applicant's entitlement or with regard to the amount to be paid.

(b) Failure to submit requested evidence of eligibility. Whenever an applicant for benefits or a lump-sum death payment has submitted insufficient or no evidence of entitlement to such benefits or lump sum, the Administration will inform the applicant what evidence is necessary to establish entitlement and will request him to submit such evidence. The applicant's failure to submit such evidence shall be a basis for determining that the conditions of entitlement concerning which such evidence was requested have not been established.

(c) Evidence of nonoccurrence of termination or deduction event. The Administration may at any time require any individual receiving, or claiming that he is entitled to receive, a benefit under title II of the act, either for himself or on behalf of another, to submit a written statement in a prescribed manner, certifying that no event has occurred which would cause such benefit to be terminated, or which would subject such benefit to deductions under the provisions of such title. The failure on the part of such individual to submit such statement, properly executed, to the Administration shall cause the suspension of such benefit.

(d) Place and manner of submitting evidence. Evidence in support of an application-shall be filed at an office of the Bureau or with an employee of the Administration authorized to receive such evidence, or in cases of persons who are not residing in the United States, at an office maintained outside the United States by the United States Foreign Service. Such evidence may be submitted as part of the application form, if the form provides for its inclusion, or it may be submitted in addition to such form and in the manner indicated by the regulation in this subpart.

(e) Endence filed with Railroad Retirement Board. When applications are made for annuities and lump sums un-

der section 5 of the Railroad Retirement Act (see Subpart O of this part) which are also applications for survivors benefits and lump-sum death payments under title II of the act, evidence developed and received by the Railroad Retirement Board in support of claims under the Railroad Retirement Act which are later transferred to the Administration may

be used in determining entitlement to or eligibility for such benefits or lump-sum death payments payable under title II.

Where a claim which has been completely adjudicated by the Railroad Retirement Board is transferred from that agency to the Administration, the Administration may; after examination, adopt as its initial determination any determination made by the Railroad Retirement Board (except as to compensation or periods of service—see section 5 (k) (3) of the Railroad Retirement Act), or, in light of the sufficiency of the supporting evidence or of new evidence which is introduced, may make such determination as shall be proper.

(Sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302. Interprets or applies sec. 204, 49 Stat. 624, as amended; 42 U. S. C. 404)

[SEAL]

W L. MITCHELL, Acting Commissioner of Social Security.

Approved: May 15, 1953.

OVETA CULP HOBBY, Secretary of Health, Education, and Welfare.

[F. R. Doc. 53-4491; Filed, May 21, 1953; 8:47 a. m.]

## TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CON-TAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAIN-ING DRUGS

## MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357 · 61 Stat. 18) the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1951, Supp. Part 141) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. Part 146; 17 F. R. 9663) are amended as set forth below

1. In § 141.202 Aureomycin ointment paragraph (a) Potency is amended by inserting the following new sentence between the sixth and the last sentences: "The sample may also be prepared by placing an accurately weighed sample consisting of 0.5–1.0 gram into a glass blending jar containing 200 milliliters of the buffer solution. Using a high-speed blender, blend the mixture for approximately 3 minutes and make proper estimated dilutions in the buffer solution." (Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

2. The headnote and paragraphs (a) and (c) (1) (ii) and (iii) of § 146.202 are amended to read:

§ 146.202 Aureomycin ointment (aureomycin hydrochloride ointment) (aureomycin calcium ointment) (aureomycin calcium cream)—(a) Standards of

identity, strength, quality, and purity. Aureomycin ointment is crystalline aureomycin hydrochloride or aureomycin calcium in a suitable and harmless ointment base. Its moisture content is not more than 1 percent if it is aureomycin hydrochloride ointment. Its potency is not less than 1 milligram per gram. The aureomycin hydrochloride used in making the aureomycin hydrochloride ointment and in preparing the aureomycin calcium used in making the aureomycin calcium ointment conforms to the requirements of § 146.201 (a) except sub-paragraphs (1) (2) (4), and (5) of that paragraph, but its potency is not less than 750 micrograms per milligram. Each other ingredient used, if its name is recognized in the U.S. P or N. F., conforms to the standards prescribed therefor by such official compendium.

(c) Labeling. \* \* \*

(1) \* \* \*

(ii) The potency per gram, expressed in terms of its equivalency of aureomycin hydrochloride;

(iii) The statement "Expiration date \_\_\_\_," the blank being filled in with the date which is 12 months, if it is aureomycin calcium ointment, or 24 months, if it is aureomycin hydrochloride ointment, after the month during which the batch was certified.

3. Section 146.217 Aureomycin calcium oral drops \* \* \* is amended as follows:

a. Paragraph (a) Standards of identity \* \* \* is amended by inserting in the first sentence, between the words "hydrochloride," and "and", the words "with or without one or more suitable sulfonamides,"

b. In paragraph (c) Labeling, subparagraph (1) (iii) is amended by inserting between the words "each" and "preservative" the words "sulfonamido and"

c. Paragraph (c) Labeling is also amended by renumbering subparagraph (3) as (4) and inserting the following new subparagraph (3)

(3) On the label and labeling, if it contains one or more sulfonamides, after the name "aureomycin calcium oral drops" or "aureomycin calcium syrup", wherever it appears, the words "with sulfonamide(s)," in juxtaposition with such name.

d. Renumbered subparagraph (4) of paragraph (c) Labeling is amended to read:

(4) On a circular or other labeling within or attached to the package, if it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled, adequate directions and warnings for the veterinary use of such drug by the laity. Such circular or other labeling may also bear a statement that a brochure or other printed matter containing information for other veterinary uses of such drug by a veterinarian licensed by law to administer it will be sent to such veterinarian on request.

(Sec. 701, 52 Stat. 1055; 21 U.S. C. 371)

This order, which provides for the certification of aureomycin ointment prepared with aureomycin calcium and the optional use of one or more suitable sulfonamides in the preparation of aureomycin calcium oral drops and aureomycin calcium syrup, shall become effective upon publication in the Federal Register, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

Dated: May 18, 1953.

[SEAL] OVETA CULP HOBBY, Secretary.

[F. R. Doc. 53-4489; Filed, May 21, 1953; 8:47 a. m.]

# TITLE, 47—TELECOMMUNI-CATION

# Chapter I—Federal Communications Commission

[Docket No. 10323]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

#### REALLOCATION OF FREQUENCIES

In the matter of amendment of § 2.104 (a) of the rules and regulations with respect to the allocation of frequencies between 450–460 Mc; Docket No. 10323.

On September 29, 1952, the Commission released a notice of proposed rule making published in the FEDERAL REGIS-TER on October 10, 1952 (17 F R. 9049) directed toward rearranging the frequency allocations in the 450-460 Mc band to provide greater separation between the frequencies available for assignment to each of the services having allocations in that band. This would permit greater flexibility in making assignments. The time for filing comments, after once having been extended upon request of interested persons, has expired. Comments were filed by the American Telephone and Telegraph Company the Joint Technical Advisory Committee; Motorola, Inc., National Committee for Utilities Radio; National Forest Industries Communications; National Rural Electric Cooperative Association; and the United States Department of Agriculture (Rural Electrification Administration) None of the comments filed opposed the adoption of the amendments as proposed. However, a number of issues were raised which, while related to the instant proceedings, were directed primarily to matters which would be more properly handled when the various "service rules" are amended to incorporate the proposed frequency

The American Telephone and Telegraph Company asked that the fre-

quencies available to the Domestic Public Service be made available on the basis of noninterference to the primary mobile service for a number of communication common carrier fixed service uses. are concerned in the present proceedings only with amendment of § 2.104 (a) of Part 2 of the rules. The provisions of present footnote NG-22 to that section are adequate to permit the desired use. Accordingly, the question of making provision for licensing of the specific types of operation referred to should be considered in connection with further amendments of the Commission's rules governing the Domestic Public Service rather than the instant proceeding.

The Joint Technical Advisory Committee pointed out that it has under way a study with respect to spacings between assignable frequencies for this band and requested that listing of 100 kc separations therein not be interpreted as precluding changes in that regard in the future. The present proceeding does not place the question of channel spacing in issue and does not preclude the future consideration of changes in channel spacing under appropriate circum-The purpose of the present stances. proceeding is to increase the flexibility of the proposed use of frequencies in this band. The rearrangement of bands of frequencies for assignment to particular licensees is but one step. Before the goal of maximum utilization of this 10 Mc spectrum space is achieved, a number of engineering and frequency assignment policy questions will, of necessity, have to be considered.

A number of other technical considerations, such as the placing of base stations and mobile stations in separate portions of the band and the possible development of a geographical assignment plan, were raised by other persons making comments. Again, we believe these are more properly considerations to be raised in connection with the amendent of the service rules involved.

In passing upon the questions involved in this proceeding, we have also given consideration to a petition filed August 2, 1951, by Bell Telephone Laboratorles, Inc., a supplemental petition thereto filed by the same party on June 2, 1952, and a petition filed by United States Independent Telephone Association on March 26, 1952. These petitions, in substance, requested that the Commission make provision for the allocation of additional spectrum space in the band 216–470 Mc for a so-called "broad band" common carrier mobile radio system and for various domestic point-to-point operations, respectively.

We have carefully reviewed the allocations presently obtaining in the stated portion of the spectrum (216-470 Mc) and the usage and commitments pertaining thereto. Upon such review, we are compelled to conclude that, insofar as the presently available non-government spectrum from 216-470 Mc is concerned, there is no present prospect of accommodating the requirements set forth in these petitions without displacing other established services and, upon

the facts set forth in such petitions and presently known to us, we are not justified in undertaking a re-allocation of this portion of the spectrum.

Accordingly, we find it necessary to dismiss the subject petitions. It is not intended that this action he a determination that additional spectrum space is not required for these common carrier services. It is apparent, however, that such relief must be sought through other devices, as suggested in our Fourth Report on Television Allocations, I. R. R. 91:551 at p. 91:558, or through the development of the broad band technique in other portions of the spectrum where the problems inherent in the instant band are less substantial.

In view of the above, it appearing that the public interest, convenience, and necessity would be served by the adoption of the amendments proposed: It is ordered, That effective July 1, 1953, § 2.104 (a) of Part 2, rules governing Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, is amended as set forth below.

It is further ordered, That frequencies assigned to new stations in the 450-460 Mc band on and subsequent to July 1, 1953, shall be in accordance with the amendment ordered herein.

It is further ordered, That, in accordance with paragraph 6 of the notice of proposed rule making, all licensees of stations in this band authorized prior to October 10, 1952, shall, wherever necessary to reflect the change in frequency allocations ordered herein, change frequency on or before July 1, 1954.

It is further ordered, That, in accordance with paragraph 7 of the notice of proposed rule making, all licensees of stations in this band authorized during the period October 10, 1952 to July 1, 1953, shall, wherever necessary to reflect the change in frequency allocations ordered herein, change frequency on or before October 1, 1953.

It is further ordered, That the petitions of Bell Telephone Laboratories, Inc., filed August 2, 1951 and June 2, 1952, and the petition of United States Independent Telephone Association filed March 26, 1952, are hereby dismissed.

(Sec. 4, 48 Stat. 1068, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1032, as amended; 47 U. S. C. 303)

Adopted: May 14, 1953. Released: May 15, 1953.

> Federal Communications Commission,<sup>2</sup>

[SEAL] T. J. SLOWIE, Secretary

Change the Commission's Table of Frequency Allocations, § 2.104 (a) as follows:

a. Delete the entries in column 11 opposite the frequency band 450-460 Mc in column 7.

<sup>&</sup>lt;sup>2</sup>Commissioner Walker dissenting and issuing a dissenting opinion which was filed as part of the original document; Commissioner Doerfer not participating.

b. Substitute the following entries in lieu thereof:

Band, Me	Service	Class of station	Frequency	Nature (of services and of stations)  11
7	8	9	10	11
450-460 (NG1, 22)	-Land mobile	(a) Base; (b) land mobile.	450.05 450.15 450.25 450.35 450.45 450.55 450.65	Remote pickup broadcast base; remote pickup broadcast mobile.
		,	450. 75 450. 85 450. 95 451. 05 451. 15 451. 25 451. 35 451. 45	,
			451.35 451.45 451.55 451.65 451.75 451.85	Industrial.
		-	451. 95 452. 05 452. 15 452. 25 452. 35 452. 45	/ }Land transportation.
			452. 55 452. 65 452. 75 452. 85 452. 95 453. 05	)
			452, 65 452, 75 452, 85 453, 05 453, 15 453, 25 453, 45 453, 45 453, 45 453, 55 453, 75 453, 85 453, 85	Public safety.
,			454. 15 454. 25	
			454. 45 454. 55 454. 65 454. 75 454. 85 454. 95 455. 05	Domestic public.
			455, 15 455, 25 455, 35 455, 45 455, 55 455, 65 455, 75	Remote pickup broadcast base; romote pickup broadcast mobile.
c			455. 85 455. 95 456. 05 456. 15 456. 25 456. 35 456. 45	
	1		456. 75 456. 85 456. 95 457. 05	)Industrial.
			457. 15 457. 25 457. 35 457. 45 457. 65 457. 65 457. 75 457. 85	Land transportation.
			457. 95 458. 05 458. 15 458. 25 458. 35 458. 45	Public safety.
			458, 55 458, 65 458, 75 458, 85 458, 95 459, 05 459, 15	a unic saley.
~	,		459. 25 459. 35 459. 45 459. 55 459. 65 459. 75	Domestic public.
			459. 85 459. 95	2: R:51 a m l

[F. R. Doc. 53-4513; Filed, May 21, 1953; 8:51 a. m.]

[Docket No. 10368]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

ADDITION OF CERTAIN FREQUENCY DANDS

In the matter of amendment of Part 2 of the Commission's rules and regulations concerning the addition of certain frequency bands to footnote 2 pertaining to § 2.104 (a) (3) (i) and (iii) Docket No. 10368.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 13th day of May 1953:

The Commission having under consideration its proposal in the above entitled matter and

It appearing, that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties, was duly published in the Federal Recister on January 15, 1953, and that the period for the filing of comments has now expired; and

It further appearing, that no comments on the proposed amendment have been filed; and

It further appearing, that the public interest, convenience, and necessity will be served by the amendment herein ordered, the authority for which is contained in section 303 (c) (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That, effective June 19, 1953, Part 2 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1068, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: May 15, 1953.

Federal Communications
Commission.

[SEAL] T. J. SLOWIE, Secretary.

Delete the present wording of footnote 2 to § 2.104 (a) (3) (i) and (iii) and in lieu thereof substitute new footnote 2 as follows:

<sup>2</sup> The provisions of this section, except for frequencies authorized to aircraft for communication with foreign stations, do not apply for the authorization of frequencies within the following frequency bands:

3500-4063 kc	9775-10,005 ko
5450-5480 kc	11,000-11,100 kg
5500–5550 kc	11,700-11,900 kg
6000–6200 kc	14,000-15,010 kg
7000–7300 kc	15,100-15,350 kg
9040-9700 kg	19.990-25.000 kg

[F. R. Doc. 53-4514; Filed, May 21, 1953; 8:52 a. m.]

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[Docket No. 10427]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICE

PART 8—STATIONS ON SHIPBOARD IN THE
MARITIME SERVICE

USE OF CERTAIN FREQUENCY ON GREAT LAKES

In the matter of amendment of Parts 7 and 8 of the Commission's rules regarding the use of the frequency 156.5 Mc on the Great Lakes; Docket No. 10427.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of May 1953:

The Commission having under consideration the above captioned matter;

It appearing, that in accordance with the requirements of the Administrative Procedure Act, a notice of proposed rule making in this matter has heretofore been published in the FEDERAL REGISTER, which notice proposed amendments of Parts 7 and 8 of the Commission's rules to provide additional use of the frequency 156.5 Mc in the Great Lakes area for transient-local business and operational communication; and

It further appearing, that the period in which interested persons were afforded an opportunity to submit comments has expired and that no comments have been received; and

It further appearing, that the public interest, convenience and necessity will be served by the amendment herein ordered, the authority for which is contained in sections 303 (b) (c) (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That effective June 19, 1953, Parts 7 and 8 of the Commission's rules are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, Secretary.

1. Section 7.356 (b) (2) (ii) is amended to read as follows:

(ii) For communication with commercial transport vessels and government vessels which are navigated primarily between separate harbors or ports or on voyages which primarily are beyond the limits of a harbor or port and with commercial transport vessels used in the fishing industry.

156.5 Mc.

2. Section 8.360 (d) (2) is amended to read as follows:

(2) For assignment to ship stations on board commercial transport vessels and vessels of municipal or state governments which are navigated primarily between separate harbors or ports or navigated primarily outside harbor or

port areas and commercial transport vessels used in the fishing industry.

156.5 Mc.

[F. R. Doc. 53-4515; Filed, May 21, 1953; 8:52 a. m.]

[Docket No. 9703]

PART 11—INDUSTRIAL RADIO SERVICES
SCOPE OF SERVICE

In the matter of revision of Subpart K of Part 11, rules governing the Special Industrial Radio Service; Docket No. 9703.

On February 13, 1953, the Commission released a further notice of proposed rule making in the above-entitled matter which included, among other things, a proposal to clarify the expression "remote or sparsely settled region" as a criterion of eligibility for the Special Industrial Radio Service by substituting the concept of a "Standard Metropolitan-Area" as defined and used by the Bureau of the Census in its 1950 Census of Population.

Population. 'In connection with this matter, the Commission has received a large number of comments, many of which raise issues which indicate that perhaps a further notice of proposed rule making may be desirable. Most of the comments, however, were agreed on one aspect of the proposal; they recommended that application of the term Standard Metropolitan Area as a criterion of eligibility be limited to those areas having a population of 500,000 or more. The Commission is of the opinion that this recommendation is reasonable, that the public interest would be served by its adoption, and that no useful purpose would be served by withholding action on this aspect of the proposal until all other matters are resolved. Such action would expedite the processing of many applications currently on file and permit the expansion of an important use of radio by industry. In this connection we would like to point out that all we are doing at this time is deleting the term "remote or sparsely settled region" in § 11.501 (a) (1) and substituting, in lieu thereof, the criterion of operation outside Standard Metropolitan Areas of 500,000 or more. We are not taking any action on the problem of special showings where part of the operation takes place inside these areas, such as the 75 percent vs. 25 percent standard originally proposed. This problem presents difficulties which must be given further study along with the other matters left unresolved.

In view of the fact that several urgent applications are now pending which could be disposed of upon finalization of the amendment herein ordered and that the effect of the amendment is to relieve a restriction, compliance with section 4 (c) of the Administrative Procedure Act is unnecessary and the amendment may be made effective immediately;

It is ordered, This 13th day of May 1953, that § 11.501 (a) (1) of the Commission's rules governing the Industrial Radio Services is amended effective immediately to read as follows:

§ 11.501 Scope of service. (a) \* \* \*
(1) Each station will be located and/or operated at all times in areas other than Standard Metropolitan Areas of 500,000 or more population as that term is defined in the 1950 Census of Population, Series PC-9, No. 6, released November 24, 1952, by the Bureau of the Census, United States Department of Commerce.

(Sec. 4, 48 Stat. 1086, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 43 Stat. 1082, as amended; 47 U. S. C. 303)

Released: May 15, 1953.

FEDERAL COMMUNICATIONS
COMMISSION,

ISEAL] T. J. SLOWIE,

Secretary.

[F. R. Doc. 53-4516; Filed, May 21, 1953; 8:52 a.m.]

[Docket No. 10426]

PART 64—MISCELLANEOUS RULES RELAT-ING TO COMMON CARRIERS

TERM

In the matter of charges for United States Government Telegraph Communications, amendment of Part 64 of the Commission's rules relating to Common Carriers; Docket No. 10426.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of May 1953:

The Commission, having under consideration the matter of the amendment of § 64.310 Term of Subpart C (United States Government Foreign and Overseas Telegraph Communications) of Part 64 of the Commission's rules and regulations; and also having under consideration its notice of proposed rule making adopted herein on March 11, 1953, and published in the Federal Register on March 21, 1953 (18 F. R. 1636) in accordance with section 4 (a) of the Administrative Procedure Act;

It appearing, that the period in which interested persons were afforded an opportunity to submit comments expired on April 24, 1953, and that no comments were received;

It further appearing, that it is in the public interest to amend Subpart C in order to extend the term thereof:

It further appearing, that the amendments herein ordered are issued under authority of sections 4 (i) and 601 (b) of the Communications Act of 1934, as amended, and pursuant to the provisions of the permits or licenses granted by the President of the United States, giving the Postmaster General authority to fix rates and charges for United States Government telegraph communications transmitted by any carrier or carriers subject to the terms of such permits or licenses, which authority was transferred to the Commission by section 601 (b) of the Communications Act;

It is ordered, That effective July 1, 1953. § 64.310 of Subpart C of Part 64 of the Commission's rules and regulations is amended to read as follows:

§ 64.310 Term. The provisions of Subpart C shall continue in effect through June 30, 1954, unless changed by order of the Commission.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S. C. 154. Interprets or applies sec. 48 Stat. 1102; 47 U.S. C. 601)

Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION, T. J. SLOWIE,

[SEAL]

Secretary.

[F. R. Doc. 53-4517; Filed, May 21, 1953; 8:52 a. m.]

# TITLE 32—NATIONAL DEFENSE

#### Chapter V—Department of the Army

Subchapter E-Organized Reserves

PART 562—RESERVE OFFICERS' TRAINING CORPS

TRAINING CAMPS

Section 562.67 is rescinded and the following substituted therefor:

§ 562.67 Students not credited with satisfactory completion of ROTC camp-(a) Dismissal from camp. When dismissal of a student from ROTC camp is deemed advisable by the camp commander, such action will be based upon a thorough and impartial investigation by a board of officers. A full report setting forth the reasons for the dismissal of the student will be prepared in triplicate. The original will be forwarded to the Professor of Military Science and Tactics concerned, the duplicate to the commander of the army area in which the student's ROTC unit is located, and the triplicate to the head of the institution in which the student is enrolled.

(b) Withdrawal from camp. (1) A student who desires to withdraw from camp for his own convenience will be interviewed by the camp commander, who will endeavor to persuade the student that it is to his advantage to complete the camp training. If the student persists in his desire, he will be permitted to withdraw. The notation "permitted to withdraw from . .\_\_\_\_ advanced course ROTC camp on \_\_\_ \_ for his (Date)

own convenience" will be placed on DA Form 1091 (Student Record for ROTC Summer Camp Trainees) of the student. The student will be advised that upon discharge from his ROTC contract he will be required to reimburse the Government for all commutation of subsistence allowances received and that, at the discretion of the institutional authorities, he may be required to refund to the institution any unearned portion of the advanced course uniform allowance expended in his behalf. The student also will be advised that his change of status will terminate his eligibility for an ROTC deferment, and his local board will be notified of this change of status and his deferment will be withdrawn.

(2) A student who is compelled to withdraw from camp through no fault of his own may be permitted to do so by the camp commander. The camp commander will take all feasible steps to obtain confirmation of the circumstances prompting such withdrawals and transmit same to the Professor of Military Science and Tactics concerned for consideration in determining his recommendation under paragraph (d) of this section.

(c) Students not credited with completion of camp. A student who is allowed to complete camp but is not credited with successful completion thereof will be given an impartial investigation by a board of officers prior to the close of the camp period. A copy of the record of the board proceedings and recommendations will be attached to DA Form 1091 as supporting evidence and forwarded to the Professor of Military Science and Tactics concerned.

(d) Discharge from ROTC contract. While a student who is dismissed or withdraws from camp or who is not credited with satisfactory completion of camp ordinarily will be discharged from ROTC contract, such discharge action will not be taken by the camp commander. After thorough examination of the camp report, the Professor of Military Science and Tactics will make appropriate recommendation to the army commander who will determine whether the student will be discharged from his contract or be retained in the ROTC. Such recommendations will include the concurrence or comment of the head of the institution.

[C2, SR 145-30-1, May 5, 1953] (R. S. 161; 5 U.S. C. 22. Interprets or applies 39 Stat. 191, as amended; sec. 34, 44 Stat. 778; 10 U. S. C. 354, 381-388, 441)

**ISEAL** WM. E. BERGIN. Major General, U. S. Army, The Adjutant General.

[F. R. Doc. 53-4481; Filed, May 21, 1953; 8:45 a. m.1

#### Subchapter F-Personnel

PART 582—DISCHARGE OR SEPARATION FROM SERVICE

DISCHARGE FOR CONVENIENCE OF THE GOVERNMENT

Paragraph (c) of § 582.3 is rescinded and the following substituted therefor:

§ 582.3 Discharge for convenience of the Government.

(c) National health, safety, or interest. Enlisted personnel may apply for separation from the service on the basis of importance to national health, safety, or interest.

(1) Except as provided in subparagraph (2) of this paragraph all applications for separation under tois provision, together with supporting evidence furnished by the applicant, will be forwarded by the commander having discharge authority direct to The Adjutant General, Department of the Army, Washington 25, D. C., Attn: AGPO-XD. for final determination.

(2) Applications received from individuals inducted under the provisions of the Universal Military Training and Service Act, as amended, who are serving within the continental limits of the United States, together with supporting evidence furnished by the applicant, will be forwarded by the commander having discharge authority to the Director of Selective Service of the State in which the applicant's local board of jurisdiction is located. The letter of transmittal will include the inductee's local board number and his selective service number, and will request a statement as to whether the circumstances presented in the application would result in deferment of the applicant on the basis of his importance to national health, safety, or interest if he were being considered for induction. When the application is returned, the commander having discharge authority will approve or disapprove the application on the basis of the statement of the State Director of Selective Service. When the need arises, information received from the State Director may be furnished but recommendations of local Selective Service Board will not be disclosed.

(3) Each application submitted by an individual having an unsatisfied service obligation imposed by the Universal Military Training and Service Act, as amended, will include a statement substantially as follows, signed by the enlisted person concerned:

I understand that if this application is approved and I do not carry out the commitments made herein, I will be subject to immediate reentry into active military serv-

[C2, AR 615-365, May 4, 1953] (R. S. 161; 5 U. S. C. 22)

WM. E. BERGIN. [SEAL] Major General, U.S. Army, The Adjutant General.

[F. R. Doc. 53-4482; Filed, May 21, 1953; 8:45 a. m.1

### Chapter XI—National Guard and State Guard, Department of the Armv

PART 1101-NATIONAL GUARD REGULATIONS COMMISSIONED OFFICERS

Sections 1101.1 to 1101.6 are hereby rescinded and the following substituted therefor:

Sec.

1101.1 General.

Appointment. 1101.2

Federal recognition. 1101.3

1101.4 Promotion.

1101.5 Termination of appointment and withdrawal of Federal recognition.

AUTHORITY: §§ 1101.1 to 1101.5 issued under sec. 118, 39 Stat. 213; 32 U.S. C. 17. SOURCE: NGR 20, March 16, 1953; NGR 20-1, March 16, 1953; NGR 20-2, March 16, 1953; NGR 20-2, March 16, 1953; NGR 20-4, March 16, 1953.

§ 1101.1 General—(a) Purpose. This section together with §§ 1101.2 through 1101.5 set forth the provisions governing the appointment, assignment, Federal recognition, promotion, transfer, and separation of commissioned officers of the National Guard.

(b) Authority. Officers of the National Guard are appointed by the several States under section 8, article 1, The Constitution of the United States. These appointments may be federally recognized by the Chief, National Guard Bureau, under such regulations as the Secretary of the Army may prescribe. An individual who is federally recognized in a particular grade and branch shall be tendered an appointment in the same grade as a Reserve commissioned officer of the Army assigned to the National Guard of the United States as provided in section 703 (b), Armed Forces Reserve Act of 1952 (Public Law 476, 82d Congress) if he has not already accepted such appointment.

(c) Relative rank. The officers of the National Guard, when not in the active military service, rank among themselves according to the laws of the State in which they hold appointment. When an officer of the National Guard enters upon active duty or active duty for training under any provision of law, he will rank among officers of the same grade who are in the active military service according to the provisions of

Army Regulations.

(d) Reserve of the Army. All officers of the National Guard who, upon the date of enactment of the Armed Forces Reserve Act of 1952, 1. e., on July 9, 1952, held an appointment in the National Guard of the United States pursuant to sections 38 or 73, National Defense Act, as amended, are considered to be Reserve commissioned officers of the Army in the same grade with assignment to the National Guard of the United States, for an indefinite period. All officers who have achieved such status as Reserve officers or who may in the future achieve such status under pertinent regulations. may be transferred from the National Guard of the United States to the Army Reserve with the consent of the Governor or other appropriate authority of the State. Territory, Puerto Rico, or the District of Columbia concerned, under such regulations as the Secretary of the Army may prescribe.

(e) Reserve appointments for warrant officers and enlisted men. Pursuant to authority contained in section .708, Armed Forces Reserve Act of 1952, warrant officers and enlisted men who meet the requirements for Federal recognition as commissioned officers, but for whom no vacancy exists in the T/O of their unit, may be tendered an appointment as a Reserve commissioned officer of the Army in the grade of second lieutenant, without vacating their enlisted or warrant officer status.

(f) United States Property and Disbursing Officer A special allotment of one officer in any branch and in the grade of lieutenant colonel is made to each State, Territory, Puerto Rico, and the District of Columbia for the position of United States Property and Disbursing Officer, except that in States with an allotted strength in excess of four thousand, this special allotment may be in the grade of colonel. The position created by this allotment may be filled only by the officer who is appointed as United States Property and Disbursing Officer or as acting United States Property and Disbursing Officer and who functions as such.

(g) State adjutants general. The appointments of a person to the office of adjutant general of a State and his tenure of office are governed by the laws of the State. The requirements and qualifications for Federal recognition The requirements and and for the continuance of Federal recognition are prescribed in § 1101.3. A State adjutant general may be appointed and serve in that capacity without Federal recognition. No officer will be federally recognized for the position allotted for the adjutant general other than the officer appointed as the adjutant general of the State and who functions as such.

- (h) Active duty-(1) General. Officers of the National Guard of the United States may be ordered to active duty under the following provisions of law and conditions:
- (i) Sections 5 and 81, National Defense Act, as amended. (Voluntary with consent of State authorities.)
- (ii) Subsection 515 (d) Officer Personnel Act of 1947 (61 Stat. 906, 10 U. S. C. 506 (d)) (Voluntary with consent of State authorities.)
- (iii) Section 21, Universal Military Training and Service Act, as amended.
- (iv) Sections 233 and 234, Armed Forces Reserve Act of 1952.
- (2) Duty in the National Guard Bureau.
- (3) T/O assignment. In time of peace an officer of a National Guard unit who is ordered to active duty for a period in excess of six months may, unless otherwise absorbed, be carried as an additional active officer of his unit notwithstanding limitations of table of organization appropriate thereto, provided that no field grade officer will be so carried for a period in excess of six months after his release from active duty, unless he has been detailed to attend a regular or associate course at a service school in which case he may be carried as an extra officer of his unit for a period of one year following his release from extended active duty.
- § 1101.2 Appointment—(a) General—(1) By whom appointed. Article 1, section 8, clause 16, of the Constitution of the United States reserves to the States the appointment of officers in the militia. Therefore, as soon as an individual is appointed an officer of the National Guard and has subscribed to an oath of office, he has a State status under which he can function. Such officer, however, will not become a member of the National Guard of the United States until he has been federally recognized and has been duly appointed as a Reserve commissioned officer of the Army in the same grade.
- (2) Authorized strength. The total number of officers of the active National Guard who may be federally recognized in any one State, Territory, Puerto Rico, or the District of Columbia is limited to the following:
- (i) The total number of officers authorized a State, or equivalent headquar-

ters, as announced by the Secretary of the Army.

(ii) The total number of officers authorized federally recognized units within a State, Territory, Puerto Rico, or the District of Columbia, as contained in the applicable T/O & E for each unit.

(iii) In addition to the above, such number of excess positions as may result from federally recognized officers of the National Guard of the United States being ordered individually to extended active duty in the military service of the United States. (See § 1101.1 (h) (3).)

(3) Appointment in a grade lower than prescribed. Appointment of an officer to a grade lower than that prescribed in the applicable National Guard T/O & E is authorized: Provided, That for each such appointment in a lower grade a vacancy is maintained in a higher grade in the same position.

(4) New units. As soon as practicable after the Chief, National Guard Bureau, authorizes the organization of a headquarters or a unit, the proper State authorities should select and appoint the officers prescribed for that headquarters or unit. Their Federal recognition will be contingent upon the qualification and recognition of such headquarters or unit.

(5) Oath of office. An appointment is not complete until the appointee has executed the oath of office if prescribed by State law. For oath required for Federal recognition, see § 1101.3 (a)

(6) Report of appointment. The State adjutant general will report all appointments to the Chief, National Guard Bureau by attaching a copy of the orders effecting the appointment to the new appointee's application for Federal recognition (NGB Form 62) Each such order will show the full name of the individual appointed; grade to which appointed, branch to which assigned, service number if previously commissioned in the Army. T/O & E positions to which assigned, and the date on which the appointment became effective. If the position was previously occupied, the name of the previous incumbent should be indicated, and a copy of the order which removed such incumbent must be furnished the Chief, National Guard Bureau. All appointments will be reported to the National Guard Bureau on the regular end-of-the-month Strength Report rendered on DA AGO Form 1 (Morning Report) of the unit concerned.

(7) Determination of branch for assignment. (i) The applicable T/O & E under which the unit is organized and to which an individual is to be assigned, will determine the branch in which he is to be assigned, with the following exceptions:

(a) Officers assigned to the tank company of an infantry regiment will be assigned in Infantry branch and officers assigned to the howitzer company of the armored cavalry reconnaissance bat-talion will be assigned in Armor.

(b) Candidates for assignment as medical, dental, and judge advocate officers and as chaplains will be assigned in Medical, Dental and Judge Advocate General's Corps and Chaplains, respec(ii) Cryptologic clearance is required for commissioned officers assigned, transferred or appointed to an Army Security Agency unit or activity. Requests for such clearance will be accompanied by completed personal history statements, in triplicate, of the individual concerned. Such requests will be forwarded to the Chief, National Guard Bureau, The Pentagón, Washington 25, D. C., for processing and evaluation.

(iii) Individuals who occupy or are to occupy positions usually designated as general staff with troops may be assigned to any branch specified in T/O & E; however, they should be assigned to the branch for which they are best qualified.

(b) Persons ineligible for Federal recognition. Persons in any of the following categories will not be eligible for Federal recognition in the National Guard, and the federally recognized status of any person thereof who has received such status through concealment of the facts will be terminated.

(1) Subversive or disloyal persons.
(i) In no case will any person who admits, or whose available records show, that he has at any time engaged in disloyal or subversive activities be federally recognized in the National Guard.

- (ii) Every applicant for Federal recognition in the National Guard will be required to execute the loyalty statement contained in item 2v, NGB Form 62, January 1, 1953. If, upon completion of this statement, the applicant acknowledges he has engaged in disloyal or subversive activities, he will be rejected for National Guard service.
- (2) Conscientious objectors. Those who are presently conscientious objectors. If an individual has been a conscientious objector, he will be required to furnish an affidavit which will express his abandonment of such beliefs and principles so far as they pertain to his unwillingness to bear arms and to give full and unqualified military service to the United States and, where appropriate, he must have demonstrated that he has changed his views by subsequent military service.
- (3) Convictions other than for minor traffic violations. Those who have a record of conviction by any type of military or civil court for other than a minor traffic violation. The Adjutant General, Department of the Army, may be requested to grant a waiver in the case of other minor violations which are nonrecurrent and which are not deemed prejudicial to performance of duty as an officer. Such clearances will be obtained by the applicant prior to his processing for Federal recognition. No requests for waivers of convictions involving moral turpitude or conviction of a felony will be considered. A certified copy of waiver, if granted, will be attached to each copy of the application for appointment.
- (4) Those who have been separated from the Armed Forces. (i) Under other than honorable conditions.
  - (ii) For unsatisfactory service.
- (iii) By reason of resignation in lieu of court-martial or reclassification.
- (iv) As a result of court-martial or reclassification.

- (5) Persons on active or retired list of certain U. S. Armed Forces. Persons who are applicants for appointment in the National Guard who are on the active or retired list of the regular Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.
- (6) Students of service academies. Cadets, U. S. Military Academy midshipmen, U. S. Naval Academy cadets U. S. Coast Guard Academy, and aviation cadets of the United States Air Force.
- (c) Appointment of State adjutant general—(1) Of a State. The appointment of a person to the office of adjutant general of a State and his tenure of office are governed by the laws of the State.
- (2) Of a Territory. The adjutant general of a Territory is appointed by the President with such grade and qualifications as the President may prescribe. However, no person will be appointed adjutant general of a Territory unless he is a citizen of that Territory.

(3) Of the District of Columbia National Guard. The adjutant general of the District of Columbia National Guard will be appointed by the President.

- (d) Appointment of Regular Army and Army Reserve personnel in the National Guard—(1) Officers of the Regular Army. In accordance with the provisions of sections 65 and 100, National Defense Act, as amended, and an approved policy of the Department of the Army, authority may be granted to officers on the active list of the Regular Army to accept commissions in the National Guard. The following conditions govern all such appointments:
- (i) The officer must be detailed as an instructor with the National Guard or appointed Chief of Staff of a division under the provisions of sections 65 and 100, National Defense Act, as amended.
- (ii) There must be a vacancy in an appropriate assignment in the National Guard in the grade in which the commission is tendered.
- (iii) The command-vacancies so filled will be limited to the command of a regiment, group, or larger organization. Staff vacancies will be limited to those in a brigade or higher organization.
- (iv) The State authorities must make the request for the appointment to the Chief, National Guard Bureau, giving the grade proposed for the appointee, and the branch and position to which he is to be assigned.
- (v) The appointment in the National Guard will be in the same grade held by the Regular Army officer, and not below that of major or above that of major general.
- (vi) Before an officer can accept such a commission, he must receive authority from the Secretary of the Army.
- (vii) The appointment will be terminated when a qualified National Guard officer is assigned to the position, or when the Regular Army officer holding the commission is relieved from duty with the National Guard of the State in which he is commissioned.
- (viii) Should the unit to which the officer is assigned be called or ordered into active military service, the officer will

resign his commission in the National Guard to be effective on or before the effective date of the call or order.

- (ix) Appointment is limited to two years, subject to extension upon further request by the governor of the State concerned.
- (2) Enlisted persons of the Regular Army. An enlisted person of the Regular Army (including retired enlisted men of the Regular Army in the Army Reservo under the provisions of section 4 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 539; 10 U. S. C. 948)) may not accept a commission in the National Guard even though he is detailed to duty with the National Guard.

(3) Members of the Army Reserve.
(i) A person who is an enlisted member of the Army Reserve will be required to obtain a conditional release from his Reserve enlistment contract before being appointed in the National Guard.

(ii) A person who holds an appointment as a Reserve officer of the Army assigned to the Army Reserve will be required to obtain a conditional release from his Army Reserve assignment, pending his attainment of Federal recognition, in the event of which he will become a member of the National Guard of the United States or will be appointed to a new grade as a Reserve commissioned officer of the Army, as appropriate.

§ 1101.3 Federal recognition—(a) General—(1) Definition. Federal recognition is the confirming action of the Department of the Army in the case of officers appointed in the National Guard by the State who have subscribed to the required oath of office, and who have been found qualified by an appropriate examining board or are otherwise qualified and who, upon review of these actions and qualifications by the Chief, National Guard Bureau, have been found to meet the requirements prescribed in law and appropriate regulations.

(i) Federal recognition is not effective until extended by the Chief, National Guard Bureau, acting for the Secretary of the Army. The effective date will be the latest date on which all the requirements for Federal recognition are met. The instrument for Federal recognition is a duly issued NGB Form 3a.

(ii) Recognition will continue in effect as long as the officer continues to meet requirements of his grade and position, or until recognition is withdrawn in accordance with any of the provisions of this part, or as otherwise provided by law

(2) Purpose. The purpose of Federal recognition is to provide those officers of the National Guard, who are of the proper ages and who meet the physical, mental, moral and professional standards prescribed by the Department of the Army, with a Federal status in which they may qualify for Federal pay and allowances when authorized for the performance of prescribed training and duty. Officers of the National Guard cannot qualify for Federal pay and allowances until they have been federally recognized as provided in this section and a federally recognized status in the National Guard is a prerequisite for ap-

pointment as a Reserve commissioned officer of the Army with assignment to the National Guard of the United States, except as provided in paragraph (i) of this section.

(3) Examination. Each officer of the National Guard who submits an application for Federal recognition in his grade, branch, and assignment must undergo an examination as to his fitness conducted by a board of officers convened for the purpose, except as provided in paragraph (i) of this section.

(4) Oath required. For other than Federal recognition of original appointments in the National Guard, each officer of the National Guard who successfully passes the examination and who meets all the requirements for Federal recognition, must first subscribe to the following oath:

I, \_\_\_\_\_, do solemnly swear that I will support and defend the Constitution of the United States and the constitution of the State of against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of . that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of in the National Guard of the State of \_\_\_\_\_, upon which I am about to enter, so help me God.

This oath may be administered by any member of the recognition board or by any officer of any component of the Armed Forces, or by any person authorized under State or Territorial law to administer such oaths.

(5) Appointment as Reserve commissioned officer of the Army. An officer of the National Guard who is federally recognized shall be appointed a Reserve commissioned officer of the Army in the same grade unless he has already accepted such an appointment. Accept-ance of such an appointment confers upon him the eligibility and the obligation to function in the active military service when so ordered by competent authority acting by direction of the President of the United States. The term of a Reserve appointment is for an indefinite period, and is not contingent. upon continued Federal recognition. Reference: Sections 224 and 707, Armed Forces Reserve Act of 1952.

(b) Persons eligible. (1) commissioned as officers of the National Guard will not be federally recognized as such under any of the provisions of this part unless they have been selected from the following classes, and have taken and subscribed to the oath of office prescribed in paragraph (a) (4) of this section.

(i) Army or Air Force Reserve officers and other qualified officers and former officers, with previous honorable and creditable service in any component of the Armed Forces, who have demonstrated their qualifications by service in the grade contemplated, or by the satisfactory discharge of equal and corresponding responsibilities.

(ii) Graduates of accredited senior ROTC units may be federally recognized as second lieutenants.

(iii) Graduates of Department of the Army officer candidate schools may be federally recognized as second lieutenants.

(iv) Warrant officers and enlisted men of the upper three enlisted grades with previous honorable and creditable active Federal service of not less than six months in those grades in any component of the Armed Forces, when in the opinion of the examining board their experience clearly satisfies the required standards, may be federally recognized as second lieutenants.

(v) Warrant officers and enlisted men who have completed a minimum of one year's service with the Armed Forces, or in the National Guard since August 14, 1945, or a combination of the two, prior to the date of appointment, have successfully completed an appropriate 10-series of the Army Extension Courses. or an equivalent course of instruction approved by the Department of the Army, including a State officer candidate school, and are otherwise qualified, may be federally recognized as second lieutenants.

(vi) Warrant officers, former warrant officers and enlisted men who have received a bachelor's degree from an accredited college or university and who have completed one year of honorable and creditable service in an active duty status with any of the Armed Forces of the United States, in active reserve status in a National Guard or Army Reserve unit that requires satisfactory participation in 48 drills per year, or any combination thereof, may be federally recognized as second lieutenants.

(vii) (a) Wartime service or previous military training are not required for appointment and Federal recognition in the National Guard of clergymen as chaplains, physicians as medical officers, dentists as dental officers, and officers assigned to State headquarters and headquarters detachments: Provided, That no person in this category will be federally recognized in any grade higher than the grade of major, except for a State adjutant general or assistant adjutant general. An officer assigned to a State Headquarters and Headquarters Detachment will not be eligible for reassignment to another unit without meeting the full military and technical requirements of the branch and position he is to occupy and physical standards for general service.

(b) If a candidate for appointment has served in the active military service or has undergone previous military training, the record of that service and training will be considered in determining general suitability for the position to which appointed.

(viii) Warrrant officers and enlisted persons who successfully complete the course of an accredited National Guard State Officer Candidate School and who are otherwise eligible may be appointed to the grade of second lieutenant.

(ix) Those who hold a certificate of eligibility as provided in paragraph (h) of this section may be appointed to the grade for which qualified as stated in the certificate.

(2) Grades to which appointed and in which federally recognized are those specified in the authorized T/O & E or T/D of the unit to which assigned.

(3) Requirements for professional accreditation and professional experience for initial appointment and Federal recognition of specialists and technical experts are those outlined in §§ 561.13 through 561.20 of this title.

(4) A civilian official or employee of the United States or the District of Columbia who is appointed an officer of the National Guard, will not be federally recognized without the consent of the head of the department or branch in which he is employed.

(c) Requirements for Federal recognition. The Chief, National Guard Bureau, will not extend Federal recognition to an officer of the National Guard until he has evidence that the following requirements have been met:

(1) Residence. The candidate must live in the vicinity of the unit to which he is assigned.

(2) Assignment. (i) The candidate must be assigned to an existing vacancy in a federally recognized unit or headquarters or an element thereof.

(ii) State Headquarters and Headquarters Detachments:

(a) Adjutant general or assistant adjutant general. A person appointed adjutant general or assistant adjutant general of a State, Territory, or the District of Columbia may be recognized in any branch. Authorized grades for recognition will conform to the quota prescribed by the Chief, National Guard Bureau, for each State Headquarters and Headquarters Detachment. If the grade authorized is that of a general officer, the candidate must qualify for Federal recognition in the appropriate grade under all requirements prescribed by the regulations in this part. When recognized, a State adjutant general or assistant adjutant general comes under the same regulations as apply to other federally recognized officers.

(b) Other State Headquarters and Headquarters Detachment officers. A person appointed as an officer of the National Guard and assigned to the State Headquarters and Headquarters Detachment may be recognized in any branch, except that the officers assigned to Selective Service vacancies must be appointed and recognized as prescribed

in National Guard Regulations.
(c) Total number and grade. total number and grades of officers rec-ognized for a State Headquarters and Headquarters Detachment in any State will not exceed the total authorized by the Chief, National Guard Bureau in the approved T/O & E of grades and positions for that State Headquarters and Headquarters Detachment.

(3) Age—(i)\_General. No candidate will be examined for recognition who is less than 21 years of age, except that commissioned officers of the Army Reserve who apply for Federal recognition in the National Guard may be not less than 18 years of age, provided that State laws so permit.

(ii) Maximum age-in-grade limitations-(a) Appointment. Applicants for

initial recognition must not have attained the birthday shown below prior to appointment in grade indicated, except that age limits may be increased by an amount not to exceed length of previous service in the grade in which appointment is desired. Previous service includes active duty in the Army in the federally recognized National Guard, and/or active Reserve status. An applicant's age must be such that he can serve at least one year before recognition will be terminated under age limitations as set forth in § 1101.4. Any applicant to be assigned to the headquarters of a State, Territory, Puerto Rico, or the District of Columbia, may not be more than 59 years old.

Grade:	Age
Second, lieutenant	28
First lieutenant	33
Captain	39
Major	48
Lieutenant colonel	51
Colonel	55

- (b) Termination. See § 1101.5.
- (3) Minimum ages for appointment
- and promotion. See § 1101.4.
  (4) Citizenship. The candidate must be a citizen of the United States.
- (5) Educational requirements for certain applicants. Applicants not previously commissioned in the Armed Forces of the United States must have completed a minimum of high school or an accredited preparatory school of equal educational level, or in lieu thereof, have passed the General Educational Development Test (high school level or above) given under the authority of the United States Armed Forces Institute. Each applicant must attain a score of 110 or higher on the Army General Classification Test, or equivalent test.
- (6) Examination. The candidate must pass the physical, moral and professional tests as prescribed by this part. (Commissioned officer of the Army Reserve may be federally recognized in the National Guard as provided in paragraph (i) of this section.)
- (d) Application for recognition and processing of papers—(1) Action taken by the individual. The applicant for recognition will take the following action to initiate Federal recognition procedures:
- (i) Undergo a standard physical examination or a physical examination for flying as applicable. Standard physical examinations will be conducted by a qualified medical officer, or by a local physician who has been approved by the State adjutant general. Physical exammation for flying will be conducted only by a qualified flight surgeon or aviation medical examiner. In the event the applicant for recognition has successfully undergone a standard final type physical examination or a physical examination for flying within a period of 90 days prior to appearance before the examining board, a certified true copy of such examination may be accepted in lieu of undergoing a new physical examination. Report of examination will be submitted on Standard Form 88 (Report of Medical Examination) accompanied by Standard Form 89 (Report of Medical History) for both nonflying and flying officers.

(ii) Complete NGB Form 62 (Application for Examination) in quadruplicate, attach appropriate copies of report of physical examination to the form and submit to immediate commanding officer. Standard report of physical examination will be submitted in one copy only, while report of physical examination for flying will be submitted in three

(iii) Assemble such personal records and documents as follows that may be required for presentation to the examining board: (If applicant is a commissioned officer in the Army Reserve, in the same or higher grade and in the same branch, examination for Federal recognition is not required. See paragraph (i) of this section.)

(a) Certificate of birth or other documentary evidence establishing date of

birth and legal name. (b) Copies of discharges or records of

prior military service.

(c) Evidence of completion of 10series Army Extension Courses.

- (d) Evidence of citizenship, if naturalized.
- (e) Evidence of satisfactory completion of educational requirements.
- (f) Ecclesiastical indorsement chaplains.
- (g) License to practice or evidence that applicant is an intern in a recognized hospital, or a medical officer in Government service, for medical officers, and license to practice or certificate of completion of dental course in recognized institution, for dental officers.
- (h) Applicants for the Judge Advocate General's Corps will submit a certificate from the highest court of the State, Territory, Puerto Rico, or the District of Columbia, as appropriate, or of a United States District Court, that the applicant is a member in good standing of the bar and is entitled to engage in the practice
- (i) For Army aviators, copies of orders granting the individual an aeronautical rating or Army aviator designation, and flying status orders requiring him to participate in regular and frequent aerial flights. Copies of State orders of appointment or promotion, if issued prior to appearance before the examining board.
- (j) Copy of order for appearance before examining board, if not included in appointment order.
- (k) A certificate attesting to Army General Classification Test or equivalent test score attained when appropriate.
- If applicant was a member of the USNR, USMCR, or USCGR, evidence of discharge from such enlistment or appointment must be presented.
- (m) If applicant is a member of the Army or Air Force Reserve, a conditional release from such component must be presented.
- (n) Copies of any correspondence evidencing waivers granted by the Chief, National Guard Bureau. Such waivers must be obtained prior to the appearance of the applicant before the examining
- (o) Any other records or documents that might be of value to the examining board.

(e) Professional examination for other than general officers—(1) General. The professional examination will consist of two parts: A written examination to determine the candidate's military knowledge qualifications; and a practical test, conducted with or without troops, to determine his ability qualifications. The examination will be sufficiently comprehensive to determine the candidate's professional qualifications, but it will not involve feats of memory requiring the reproduction of statistics, data, or kindred matter ordinarily found in reference works.

(2) Scope-(i) Subjects. In determining the subjects under professional qualifications in which a candidate (except a general officer, chaplain, judge advocate, or medical officer) is to be examined and scope of the examination in each subject, the board will be governed by the subjects included in the military knowledge qualification requirements corresponding to those contained in Department of the Army Pamphlet No. 200-100 (Announcement of Army Extension Courses) In the case of a chaplain, judge advocate, 'medical or dental officer, the board will be governed by the provisions of §§ 561.16 through 561.18 of this title.

(ii) Texts., Applicable field manuals and technical manuals will be used as reference texts in the conduct of the professional examination.

(3) Evidence of prior service. If the candidate produces evidence that he has satisfactorily discharged the duties of the grade and assignment for which examined, or has satisfactorily discharged duties of corresponding and equal responsibility in the active military service in one of the Armed Forces of the United States, the board may accept this service as evidence of professional qualifications for the grade and branch for which examined and may dispense with the professional examination. The evidence accepted by the board in lieu of examination will be shown in the record of proceedings.

(4) Evidence of commission. If the candidate produces evidence that he has held a commission in any component of the Armed Forces of the United States in the same grade and branch, and has served satisfactorily in that assignment. the board may accept this service as evidence of professional qualification and may dispense with the professional examination. The evidence accepted by the board in lieu of examination will be shown in the record of proceedings. Candidates with prior commissioned service in a component of the Armed Forces of the United States other than indicated in this part may or may not be required to undergo professional examination depending upon the Military Occupational Specialty of the individual as related to the position in the National Guard he is to occupy.

(5) For candidates for the grade of second lieutenant-(i) Evidence of graduation from OCS or ROTC. examining board may accept evidence of satisfactory completion of the courses of training at an Officer's Candidate School or certificate attesting to successful completion of the senior division

Reserve Officers' Training Corps Courses conducted under supervision of an officer detailed by the Department of the Army. In accepting such evidence, the board must give due consideration to the type of training given the candidate at the Officers' Candidate School or senior division Reserve Officers' Training Corps unit.

(ii) Evidence of prior service as warrant officer If the candidate produces evidence that he has performed not less than 6 months' active military service as a warrant officer in the Armed Forces of the United States and that this service clearly satisfies the required standards, the examining board may accept such service in lieu of any or all tests prescribed under proficiency qualifications for candidates for the grade of second lieutenant.

(iii) Evidence of prior service as an enlisted man of the upper three grades. If the candidate produces evidence that he has performed not less than 6 months' active military service in the Armed Forces of the United States in one of the upper three enlisted grades and that this service clearly satisfies the required standards, the examining board may accept such service in lieu of any, or all tests prescribed under proficiency qualifications for candidates for the grade of second lieutenant: Provided, That the following qualifications are met:

(a) Age. Not less than 21 and not attained 28 years of age, except as provided in paragraph (c) (3) (i) of this section

(b) Classification. Each such applicant must attain a score of 110 or higher on the Army General Classification Test, or equivalent test. Evidence of score attained will be presented to the board in writing.

(c) Moral character. Excellent, as indicated on service record.

(iv) Presentation of certificate of proficiency. If a candidate for commission as second lieutenant has obtained, by completion of a special course for non-commissioned officers at an appropriate service school, a certificate of proficiency in any subject prescribed under professional qualifications, the board may accept this certificate in lieu of examination in the subject covered.

(6) Evidence of graduation from general and special service schools. If a candidate produces a certificate showing satisfactory completion of appropriate courses of instruction for officers at general and special service schools, the board may accept this evidence in lieu of any or all tests prescribed under pro-

fessional qualifications.

(7) Evidence of graduation from high school or higher educational institution or equivalent. When a candidate produces satisfactory evidence of graduation from a standard high school or from an equivalent or higher institution of learning, or evidence of having passed the General Educational Development Test (high school level or above) given under the authority of the United States Armed Forces Institute, the board may accept this evidence in lieu of any tests designed to determine the candidate's general education.

(8) Transfer to another branch. The examination in military subjects of an officer who has been transferred to another branch will be the same as for an original appointment in such branch (except as provided in paragraph (j) (3) (ii) of this section)

(f) Professional examination for general officers-(1) General. In the examination of candidates for appointment as general officers, the board will determine whether they are physically, morally, and professionally qualified to perform the duties of the grade for which examined. Such steps as deemed necessary will be taken to ascertain that the candidate for Federal recognition holds an appointment in the National Guard of a State, Territory, Puerto Rico, or the District of Columbia in the grade for which he is being considered, that he is in an active status, that he has com-pleted a minimum of two years' service for promotion purposes in the lower federally recognized grade, and that he has at least two years to serve prior to reaching the maximum age in the grade for which examined. In connection with the foregoing, the board is authorized to call upon the Chief, National Guard Bureau, and the appropriate Army commander for such records and reports as may be desired.

(2) Military educational requirements. The successful completion of the regular, associate, or special associate course of the Command and General Staff College, or an Army Area branch thereof, will be a prerequisite for promotion to general officer grade, except when in the opinion of the Federal recognition examining board the officer should be credited with constructive credit for completion of such instruction.

(g) Reexamination in case of failure—
(1) For candidates for grades below general officer. A candidate for a grade below that of a general officer who falls to pass the prescribed examination may be authorized by the State adjutant general to take another examination at a later date.

(2) For candidates for the grade of general officer A candidate for the grade of general officer, who fails to pass the prescribed examination for general, professional, or physical reason, may be authorized to take another examination not less than one year after the date of the last examination. No candidate for the grade of general officer will be examined more than twice for the same grade and position.

(3) All cases of reexamination. In all cases of reexamination, the candidate must appear in person before the examining board.

(h) Certificates of eligibility. (1) In order that individuals of the National Guard for whom there is no position vacancy may be examined to determine their fitness for future appointments or promotions, the State adjutant general may entertain applications for certificates of eligibility. Such applicants will be required to execute NGB Form 62, Standard Forms 88 and 89, and all allied papers prescribed for Federal recognition, except the oath of office and appointment orders, and will be ordered to appear before a Federal recognition

board. If found qualified in all respects except position vacancy for a particular grade and branch, the report of board proceedings and allied papers will be forwarded with appropriate indorsement on NGB Form 62 by the State adjutant general to the Chief, National Guard Bureau. If approved, NGB Form 89a, "Certificate of Eligibility," will be issued to the person concerned.

(2) A certificate of eligibility is effective for two years. If, during this period, the State adjutant general should appoint the holder of the certificate to a position vacancy of the same grade and branch in which qualified, a letter requesting Federal recognition, accompanied by an appointment and assignment order and an oath of office (NGB form 337) will be forwarded by the State adjutant general to the Chief, National Guard Bureau. If the original physical examination recorded on Standard Forms 88 and 89 is more than 6 months old, a new physical examination will be required. The Chief, National Guard Bureau, will issue NGB Form 3a effective when each of the requirements contained in this part have been fulfilled.

(3) Upon expiration, a certificate of eligibility may be renewed through the same procedure as provided in subpara-

graph (1) of this paragraph.

(i) Waiver of examination for Federal recognition. When a commissioned officer of the Army Reserve applies for Federal recognition in the same or a lower grade and in the same branch in the National Guard in which he is commissioned, the examination prescribed in section 75, National Defense Act, and in this section, is not required. The application for Federal recognition, together with all allied papers, except the order for the candidate to appear before the board and the orders appointing the board, will be forwarded by the applicant's commanding officer to the State adjutant general. The State adjutant general will review the application and. if approved, will issue appointment and assignment orders, secure properly executed oath of office (NGB Form 337) and forward the application to the Chief, National Guard Bureau for appropriate action. When Federal recognition is granted, The Adjutant General of the Army will be notified by the Chief, National Guard Bureau in order that administrative action may be taken to effect the transfer of the applicant from assignment in the Army Reserve to assignment in the National Guard of the United States.

(j) Waivers—(1) Waiver of professional requirements. Except as hereinafter provided, no waiver of any requirement for professional qualification of National Guard officers will be granted, except under direct authorization by the Secretary of the Army.

(2) Waiver of physical requirements. Waivers for physical defects will be authorized only to the extent prescribed for officers of the Regular Army.

(3) Waiver of technical requirements.
(i) With such exception as may be later contained in this part, when an officer is assigned in a branch other than that in which he performed his prior active military service or when, by reason of

conversion of his unit or for any other reason, an officer is reassigned in a branch other than that in which originally federally recognized or assigned, qualifications in those technical subjects not common to the two branches may be waived for a period of one year, or in exceptional cases for such additional time as may be authorized by the Chief, National Guard Bureau.

(ii) Waiver for technical requirements, as outlined in subdivision (i) of this subparagraph, will not be required when the officer is commissioned or transferred in the grade of second lieutenant, irrespective of the branch involved.

§ 1101.4 Promotion—(a) General. (1) The promotion of National Guard officers is the function of the proper State authorities. As in original appointments, an officer promoted by State authorities to a higher grade has a State status in the higher grade under which he can function. However, an officer will not be eligible for a new appointment as a reserve commissioned officer of the Army in the higher grade until he has been extended Federal recognition as provided in § 1101.3.

(2) Promotions will be effected only when appropriate vacancies exist in the applicable T/O & E or T/O of the unit. All promotions will be reported on the 'appropriate personnel status report rendered on DA AGO Form 1 (Morning

Report)

(b) Requirements for promotion. (1) The requirements for promotion of general officers are as contained in Army Regulations.

- (2) Promotion of commissioned officers of the National Guard will be based on efficiency, length of service in grade, demonstrated command and staff ability at the appropriate level, and position vacancy.
- (i) Promotions may be made and Federal recognition may be granted to officers of the National Guard upon completion of the following minimum years of service in grade from which promoted. provided they are otherwise qualified:

Second lieutenant, 3: first lieutenant, 2: captain, 4; major, 4; lieutenant colonel, 3.

- (ii) As an exception to the provisions of subdivision (i) of this subparagraph, an officer in the grade of second lieutenant or first lieutenant who has served creditably in a position vacancy of captain for 12 months may be considered for Federal recognition in the next higher grade, provided he is otherwise qualified. An officer may be promoted only once under this exception.
- (iii) Service in the same or higher grade in the active military service, the active National Guard, and the Army Reserve, except the Inactive Status List and the Retired Reserve, will be credited in the total service claimed for promotion under the provisions of this paragraph.
- (3) The following minimum military educational requirements will be a prerequisite for promotion except where an officer has, while in active military service, performed satisfactorily in the higher grade; or has clearly demonstrated his qualifications by performance of the duties for the higher grade, while ac-

tually assigned to the higher position for a minimum period of 6 months.

(i) To general officer The successful completion of an appropriate course of the Command and General Staff College. or a local branch thereof.

(ii) To colonel of a combat branch. The successful completion of an appropriate course of the Command and General Staff College, or a local branch thereof.

(iii) To field grades (other than to colonel of a combat branch) Successful completion of the regular or associate advanced course of the appropriate branch service school, a local branch thereof, or a higher school.

(iv) To company grade. Successful completion of the regular or associate basic course of the appropriate branch service school, or a higher course.

(v) To any grade, in lieu of the requirements in subdivisions (i) (ii) (iii) and (iv) of this subparagraph. (a) Successful completion of the Army Extension Course applicable to the branch and new grade.

(b) Officers who complete, or have completed, a minimum of 1 year of active military service in grade, and whose efficiency report for that period reflects an excellent manner of duty performance, may be considered to have met the military educational requirements for promotion to the next higher grade (up to and including colonel) than the grade held during the period of active military service: Provided, That the promotion is in the same branch as that in which the active military service was performed.

(c) A candidate for promotion in the Medical Corps, Dental Corps, and Chaplains may be considered to have satisfied the military educational requirements for promotion to the next higher grade when the Federal recognition examining board determines that he has acquired professional knowledge and experience adequate to the next higher grade through the pursuit of his profession in which the work performed closely parallels his prescribed military duties.

(vi) All promotions. Professional qualifications for the grade to which promoted shall be evidenced, as an added requirement, by excellent performance of military duties in the grade from which promoted as reflected by periodic efficiency reports and recommendations of the appropriate commanders in the chain of command.

(4) The following minimum ages will apply for original appointment or promotion of officer to the grade indicated (except for a commissioned officer of the Army Reserve who may be initially recognized as a 2d lieutenant, if his age is not less than 18 years)

Second lieutenant, 21; first lieutenant, 22; captain, 24; major, 26; lieutenant colonel, 30; colonel, 34.

§ 1101.5 Termination of appointments and withdrawal of Federal recognition—(a) Authority. The termination of the appointment of a commissioned officer of the National Guard is a function of the State authorities. When an officer's status in the National Guard of a State is terminated, the Chief. National

Guard Bureau will withdraw Federal recognition. When Federal recognition has been withdrawn, the officer will be relieved from assignment to the National Guard of the United States and considered for discharge from his appointment as a Reserve commissioned officer of the Army. If not so discharged, he becomes a member of the Army Reserve and ceases to be a member of the National Guard of the United States, and is eligible for promotion to the highest permanent grade previously held in the Army or any component thereof (section 706, Armed Forces Reserve Act of 1952. Public Law 476, 83d Congress)

(b) Causes. The appointment of a National Guard officer will be terminated for the following causes:

(1) Death. (Paragraph (c) (2) of this section.)

(2) Attainment of maximum age-ingrade as follows—(i) General officers. The last day of the month in which a major general has reached the age of 62, or a brigadier general has attained his 60th birthday. An officer holding appointment as Chief, National Guard Bureau, or any general officer who is assigned to the Headquarters of a State, Territory, Puerto Rico, or the District of Columbia may, in the discretion of the Secretary of the Army, and if the laws of his State permit, retain Federal recognition until attainment of age 64.

(ii) Other officers. The last day of the month in which a colonel attains his 58th birthday, and lieutenant colonels and below have reached their 55th birthday. (The foregoing provisions of this subdivision are effective beginning October 1, 1953.) An officer assigned to Headquarters of a State, Territory, Puerto Rico, or the District of Columbia may retain Federal recognition until age 60.

(3) Physical disqualification. ever the physical fitness of a National Guard officer is in question, the State authorities will order such officer to appear before a board of officers composed of an equal number of medical officers serving on active duty and National Guard of the United States officers not on active duty to determine his fitness for further service. The appointment and procedure of such boards will conform in general to that prescribed for recognition examining boards.

(4) Acceptance of resignation. An officer who desires to resign will submit his resignation to the State adjutant general through National Guard command channels. The State authorities will, if the resignation is accepted, publish an appropriate order, notify the officer concerned, and forward a copy of the order to the Chief, National Guard Bureau, in order that the officer's Federal recognition may be withdrawn, and a copy to the appropriate Army Com-

mander.

(ii) When the resignation of a National Guard officer has been accepted and Federal recognition has been terminated by the Chief, National Guard Bureau, revocation of the acceptance order by the State adjutant general will not be considered as a basis for restoration of Federal recognition. Where an officer desires to be reinstated in the National

Guard, it will be necessary for him to be reappointed, to apply for new Federal recognition, and to be examined by a Federal recognition examining board: *Provided*, That, if his appointment as a Reserve commissioned officer of the Army is still in effect, he will not be required to appear before another Federal recognition examining board.

(5) Absence without leave for three months.

(6) When dismissed pursuant to the approved sentence of a court-martial.

(7) When convicted of a felony in a civil court.

(8) When he accepts an appointment in the Regular Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard or a reserve component thereof, or when he is transferred from the NGUS to the Army Reserve.

(9) When he enlists in the Regular Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or a reserve component thereof, or when transferred from the NGUS to the Army

Reserve.

- (10) When Federal recognition has been withdrawn from his unit, unless he is transferred to an existing vacancy in another federally recognized unit or transferred to the Inactive National Guard.
- (11) When it has been determined that the officer is subversive or disloyal.
- (c) Report of separation from the National Guard. (1) The orders announcing the separation of an officer from the National Guard will contain the specific reason therefor (such as physical disqualification, removal to another State, removal to another community where no National Guard T/O vacancy exists for assignment, interference with business, voluntary change to another reserve component, resignation, etc.) and a copy of each separation order will be forwarded to the Chief, National Guard Bureau, and to the appropriate Army commander by the issuing headquarters, immediately upon publication. All separations will be reported on the regular unit "end-of-month" personnel strength report rendered on DA AGO Form 1.
- (2) In case of death of an officer, a report, by the most expeditious means available, and in any event not more than 72 hours after death occurs, will be forwarded to the Chief, National Guard Bureau, and will include the following information:
- (i) Name, grade, service number, and branch.
  - (ii) Date of death.
  - (iii) Hour of death.
  - (iv) Place of death.
- (v) Cause of death (include complete diagnosis)
  - (vi) Duty assignment.
  - (vii) Duty status.
- (d) Withdrawal of Federal recognition. Federal recognition of a National Guard officer will be withdrawn by the Chief, National Guard Bureau: (1) When he has been absent with-
- (1) When he has been absent without leave for 3 months.
- (2) When the findings of a medical board show that he is physically inca-

pacitated for further service, or when it has been determined by the Department of the Army that the officer has become physically disqualified for further military service.

- (3) When he is a member of the headquarters of a battalion or larger unit and that unit becomes so depleted that it no longer conforms to the prescribed recognition requirements. In such cases recognition of the commanding officer and his staff will be withdrawn 6 months after the date on which the unit became incomplete, unless the condition is corrected prior to the expiration of that period.
- (4) When the time limit of a technical waiver expires and the officer has failed to complete the requirements prescribed therein and an examining board has not recommended a time extension or retirement of the waiver. The officer may at the discretion of the Secretary of the Army be retained in the Army Reserve in a position for which he may qualify.
- (5) When an inspection conducted under the provisions of section 93, National Defense Act, as amended, shows that the individual is lacking in the required qualifications. In such cases the Department of the Army acting through the Chief, National Guard Bureau, may summarily withdraw Federal recognition
- (6) When an efficiency board, appointed under the provisions of section 76, National Defense Act, as amended, finds an officer inefficient or unfit and these findings are approved by the Chief, National Guard Bureau.
- (7) When the officer reaches the maximum age prescribed for his grade and assignment.
- (8) In the case of a chaplain, when ecclesiastical indorsement is withdrawn by the church of his faith.
- (9) In the case of an officer of the Medical or Dental Corps, when his license or right to practice his profession has been terminated by proper authority.
- (10) In the case of an officer of the Judge Advocate General's Corps when by action of appropriate authorities the officer is refused the privilege of practicing law within any State or Federal court.
- (11) When recognition is withdrawn from the unit to which the officer is assigned, except as provided in subparagraph (3) of this paragraph, unless he is transferred to an existing vacancy in a recognized unit or to the Inactive National Guard
- tional Guard.

  (12) When an officer is transferred from a position in which he is recognized to a position for which there is no provision for recognition.

(13) When the appointment of an officer is vacated under applicable State laws by action of State authorities.

(14) When The Adjutant General of the Army fails to appoint an officer as a Reserve commissioned officer of the Army within a reasonable time after Federal recognition has been granted, or when the officer fails to accept such an appointment within a reasonable time after same has been tendered him, as evi-

denced by failure to execute and return the required oath of office.

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(15) When it has been determined by the Department of the Army that the officer is subversive or disloyal.

(16) When the officer's appointment as a Reserve commissioned officer of the Army is terminated.

(17) When the officer is convicted of a felony.

(18) When the officer accepts a commission in the Regular Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

(19) When dismissed pursuant to a court-martial sentence.

(20) When an officer is placed on the Army of the United States Retired List under the provisions of Title III, Public Law 810, 80th Congress.

(21) Temporary Federal recognition will be automatically terminated at the end of six months, if permanent Federal recognition is not sooner granted, or if temporary Federal recognition is not sooner withdrawn due to final determination that the candidate fails to meet the requirements for permanent recognition.

(e) Action by Department of the Army. In the event of withdrawal of Federal recognition by the Chief, National Guard Bureau for undesirable cause, The Adjutant General, Department of the Army will take the necessary action to determine whether the officer shall be transferred to an appropriate category of assignment in the Army Reserve or whether he shall be discharged from his appointment as a Reserve commissioned officer of the Army.

WM. E. BERGIN, Major General, U. S. Army, The Adjutant General.

[F. R. Doc. 53-4598; Filed, May 21, 1953; 8:50 a. m.]

# TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-11—and Direction 5—Revocation]

M-11-Copper and Copper-Base Alloys

DIR. 5—PROCEDURE FOR DISTRIBUTORS TO OBTAIN POWDER MILL PRODUCTS AND FOUNDRY COPPER AND COPPER-BASE AL-LOY PRODUCTS

#### REVOCATION -

NPA Order M-11 (17 F. R. 9554) and Direction 5 under that order (17 F. R. 767) are hereby revoked.

This revocation does not relieve any person of any obligation or liability incurred under NPA Order M-11 or Direction 5 as originally issued or as thereafter amended, nor deprive any person of any rights received or accrued under said order or direction prior to the effective date of this revocation.

(C4 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation shall take effect July 1, 1953.

Issued May 20, 1953.

NATIONAL PRODUCTION
AUTHORITY,
By George W Auxier,
Executive Secretary.

[F. R. Doc. 53-4538; Filed, May 20, 1953; 2:54 p. m.]

- [Direction 1 to NPA Order M-80 and to Schedules 2, 4, and 5, as Amended May 20, 1953]
- M-80—IRON AND STEEL—ALLOYING MATERIALS AND ALLOY PRODUCTS
- DIR. 1—MODIFICATION OF FILING REQUIRE-MENTS FOR ALLOCATION APPLICATIONS

This amended direction to NPA Order M-80 and to Schedules 2, 4, and 5 of that order, is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amended direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action.

This direction is amended in order to exclude nickel from its provisions. The procedure for quarterly applications for allocations of cobalt, molybdenum, and columbium and tantalum continues in effect.

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- 1. Purpose of this direction.
- 2. Applications for alfocation.
- 3. Effect on other provisions of M-80.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp., secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. Purpose of this direction. This direction continues the current method employed by NPA in the allocation of cobalt, molybdenum, and columbium and tantalum in requiring melters and processors to file Form NPAF-114 on a quarterly basis, but discontinues that method of allocation with respect to mckel. Applications for allocation of nickel shall, hereafter be filed on a monthly basis as provided in sections 4 and 7 of NPA Order M-80 and section 3 of Schedule 1 to that order.

Sec. 2. Applications for allocation. Each melter or processor who requires delivery of and authorization to use cobalt, molybdenum, or columbium and tantalum during the third calendar quarter of 1953, shall file an application on Form NPAF-114 with NPA on or before the seventh day of June 1953. Thereafter, such applications may be made on or before the seventh day of the month next preceding the commencement of any subsequent calendar quarter. A separate application shall be submitted covering the applicant's total purchase and use requirements for each of the restricted alloying materials, co-

balt, molybdenum, or columbium and tantalum, for the calendar quarter for which Form NPAF-114 is filed. Notwithstanding sections 4 and 7 of NPA Order M-80 and section 3 of Schedules 2, 4, and 5 to that order, applications for allocation authorizations of cobalt, molybdenum, or columbium and tantalum shall not be filed monthly, but shall be filed quarterly as provided for in the first sentence of this section.

Sec. 3. Effect on other provisions of M-80. This direction shall not alter any reporting requirement of NPA Order M-80 other than the filing of Form NPAF-114, with respect to cobalt, molybdenum, or columbium and tantalum, on a quarterly basis rather than on a monthly basis, as set out in section 2 of this direction. All other reporting requirements provided for by the order remain in full force and effect.

This direction, as amended, shall take effect May 20, 1953.

NATIONAL PRODUCTION,
AUTHORITY,
By George W. Auxier,
Executive Secretary.

[F. R. Doc. 53-4539; Filed, May 20, 1953; 2:54 p. m.]

[NPA Order M-99—Revocation]

M-99-CRYOLITE

#### REVOCATION

NPA Order M-99 (18 F R. 1419) is hereby revoked.

This revocation does not relieve any person of any obligation or liability incurred under NPA Order M-99 as originally issued or as thereafter amended, nor deprive any person of any rights received or accrued under said order prior to the effective date of this revocation. (64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation is effective May 20, 1953.

NATIONAL PRODUCTION
AUTHORITY,
By George W Auxier,
Executive Secretary.

[F. R. Doc. 53-4540; Filed, May 20, 1953; 2:54 p. m.]

[NPA Reg. 2, Direction 3—Revocation]

REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

DIR. 3—RESTRICTIONS UPON USE OF RATINGS

#### REVOCATION

Direction 3 to NPA Reg. 2 (18 F. R. 1139) is hereby revoked.

This revocation does not relieve any person of any obligation or liability incurred under this direction as originally issued or as thereafter amended from time to time, nor deprive any person of any rights received or accrued under said direction prior to the effective date of this revocation.

(64 Stat. 816, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2154)

This revocation shall take effect July 1, 1953.

Issued May 20, 1953.

NATIONAL PRODUCTION
AUTHORITY,
By George W. Auxier,
Executive Secretary.

[F. R. Doc. 53-4541; Filed, May 20, 1953; 2:54 p. m.]

# TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter B—Military Personnel

[CGFR 53-12]

PART 33—APPOINTMENT OF CIVILIANS AS COMMISSIONED OFFICERS, CHIEF WAR-RANT OFFICERS, AND WARRANT OFFICERS

#### MISCELLANEOUS AMENDMENTS

By virtue of the authority contained in 14 U.S. C. 92, 223, 224, 631 and 633, the following amendments of the regulations are hereby prescribed, and will be effective upon publication in the Federal Register.

The amendments reflect a recent grant of authority from the Secretary of the Treasury to the Commandant, United States Coast Guard, to convene certain Coast Guard boards, and to take final action on the recommendations of such boards.

1. Paragraph (a) of § 33.05-5 is amended to read as follows:

§ 33.05-5 Precedence. (a) Officers appointed under this subpart who, during any period of World War II, did not serve temporarily as commissioned officers of the Coast Guard, or as commissioned officers who were regular members of the Coast Guard Reserve, shall take precedence with other officers in their respective ranks in accordance with the dates of commission of such ranks. Appointees whose dates of commission are the same shall take precedence with each other in the order recommended by the selecting and examining board as approved by the Commandant.

2. Paragraph (b) (10) of § 33.05-5 is amended to read as follows:

§ 33.05-5 Precedents, \* \* \* (b) \* \* \*

(10) In the event that the Commandant finds that the grade and precedence determined for any person who, during any period of World War II, served temporarily as a commissioned officer of the Coast Guard is such that the position of the appointee on the lineal list would be manifestly in disagreement with the established precedence of other officers, the Commandant may establish a different procedure which is better suited to the established precedence of other officers and shall assign a date of rank which will correspond to that precedence.

amended to read as follows:

§ 33.05-23 Notification. (a) All examination papers will be graded and reviewed, and adaptability of applicants for entrance into the Coast Guard determined by a board of officers, Coast Guard Headquarters, Washington, D. C. This board will be appointed by the Commandant and the board's findings, when approved by the Commandant, are final. (Sec. 8, 18 Stat. 127, as amended; 14 U.S.C.

PART 50—COAST GUARD RETIRING REVIEW BOARD

COMPOSITION AND ACTION BY BOARD

By virtue of the authority vested in me by 14 U.S. C. 92, 631, and 633, the regulations are amended as indicated below.

1. Paragraph (a) of § 50.2 is amended to read as follows:

§ 50.2 Composition of Board. (a) The Board will be composed of five commissioned officers designated for each case from a panel appointed by the Commandant. The senior Coast Guard member of the panel will designate the members of the Board for each case, three of whom shall be officers of the Coast Guard and two of whom shall be officers of the Public Health Service.

2. Paragraph (d) of § 50.5 is amended to read as follows:

§ 50.5 Action by the Board. \* \* \*

(d) When the Board has concluded its proceedings in any case the Recorder will prepare a complete record thereof, including (1) the application for review, (2) a transcript of the hearing, if any, (3) affidavits, briefs, and written agreements filed in the case, (4) the findings and decision of the Board, and (5) all other papers and documents necessary to reflect a true and complete record of the proceedings. This complete record will be transmitted to the Commandant for appropriate action.

(Sec. 8, 18 Stat. 127, as amended; 14 U.S. C.

[SEAL] H. CHAPMAN ROSE, Acting Secretary of the Treasury. May 6, 1953.

[F. R. Doc. 53-4509; Filed, May 21, 1953; 8:50 a. m.1

# TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I-Veterans' Administration

PART 21-VOCATIONAL REHABILITATION AND EDUCATION

SUBPART B-EDUCATION AND TRAINING

SUPPART C-TRAINING FACILITIES

MISCELLANEOUS AMENDMENTS

1. In Subpart B, § 21.236c is revised to read as follows:

§ 21.236c Furnishing magazines and other periodicals. Subscriptions to magazines and other periodicals for trainees will not be furnished at Veterans' Ad-

3. Paragraph (a) of § 33.05-23 is ministration expense. However, where specific magazine articles are selected by a school and prescribed as required text material, appropriate past issues of magazines or periodicals or reprints of articles excerpted therefrom may be furnished at Veterans' Administration expense in the same way as school text books are furnished. Reprints as authorized in this section shall consist only of those issued and offered for sale by the publishers.

> 2. In § 21.322, paragraph (a) is amended to read as follows:

> § 21.322 Furnishing special items. (a) Musical instruments, cameras and their accessories, tennis rackets, golf clubs, and any other expensive items which are susceptible of use for personal amusement and recreation will not be furnished unless the item is indispensable to particular major or minor unit courses essential to pursuit of the overall course, and the regional manager has satisfied himself that the veteran possesses sufficient interest, aptitude, and talent to promise success in the completion of the course. These conditions will be considered to have been met when veterans under Part VIII. Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12 note) have elected to receive and have been provided with approved counseling, and the firdings clearly indicate that the veteran possesses sufficient interest, aptitude, and talent to promise success in the completion of the course.

> 3. Section 21.324a is revised to read as follows:

§ 21.324a Furnishing magazines and other periodicals. Subscriptions to magazines and other periodicals for trainees will not be furnished at Veterans' Administration expense. However, where specific magazine articles are selected by a school and prescribed as required text material, appropriate past issues of magazines or periodicals or reprints of articles excerpted therefrom may be furnished at Veterans' Administration expense in the same way as school textbooks are furnished. Reprints as authorized in this section shall consist only of those issued and offered for sale by the publishers.

4. In § 21.539 of Subpart C, a new paragraph (d) (12) is added as follows:

§ 21.539 Books, supplies and equipment, including tools, for Part VII or Part VIII trainees; furnished by an educational institution. \* \* \*

(d) "Supplies" for which payment may be made and items for which payment may not be made. \* \* \*

(12) Payment for magazines and other periodicals (see §§ 21.236c and 21.324a)

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, cec. 400, 58 Stat. 287, as amended; 38 U. S. C. 11a, 701, 707, ch. 12 note. Interprets or applies sees. 3, 4, 57 Stat. 43, as amended, sees. 303, 1500–1504, 1506, 1507, 58 Stat. 286, 300, as amended: 38 U. S. C. 693g, 697-697d, 697f, g, ch. 12

This regulation is effective May 22, 1953.

[SEAL]

H. V. STIPLING. Deputy Administrator.

[F. R. Doc. 53-4512; Filed, May 21, 1953; 8:51 a. m.]

# TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I-Bureau of Land Management, Department of the Interior

Subchapter S—Rights-of-Way

PART 244-RIGHTS-OF-WAY OTHER THAN FOR RATLEOAD PURPOSES AND FOR LOG-GING ROADS ON THE OREGON AND CALI-FORMA AND COOS BAY REVESTED LANDS

SUBPART I-RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPELINES AND PUMPING PLANT SITES UNDER THE MINIERAL LEASING ACT

COMMION CARRIER STIPULATION; OIL OR GAS PIPELINES

Section 244.63 is repealed and § 244.62 is amended to read as follows:

§ 244.62 Common carrier stipulation: oil or gas pipelines. Each application for an oil or gas pipeline right-of-way must include the following stipulation:

The applicant agrees to operate the pipeline as a common carrier in accordance with the providions of the Mineral Leasing Act, and, within 30 days after the request of the Secretary of the Interior, to file rate schedule and tariff for the transportation of oil or gas, as the case may be, as such common carrier with any regulatory agency having jurisdiction over such transportation, as the Secretary may prescribe.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1231)

> DOUGLAS MCKAY, Secretary of the Interior.

MAY 18, 1953.

[F. R. Doc. 53-4183; Filed, May 21, 1953; 8:45 a. m.]

# **PROPOSED RULE MAKING**

## DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

17 CFR Part 907 1

[Docket No. AO-212-A5]

MILK IN MILWAUKEE, WISCONSIN, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED LIAR-KUTING AGREEMENT AND PROPOSED ORDER AMERIDING ORDER NOW IN EFFECT REGU-LATRIC HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing pro-

No. 99-3

ceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Milwaukee, Wisconsin, on April 29, 1953, pursuant to notice thereof which was issued on April 22, 1953 (18 F R. 2451)

The material issues of record related

- (1) A revision of the pricing provisions applicable to Class III milk and Class IV milk. Related thereto were proposals to redesignate certain Class III milk products (evaporated milk, condensed milk, nonfat dry milk solids and whole milk powder) as Class III (a) milk and to reclassify milk used in the manufacture of cheese from Class IV milk to Class III (a) milk.
- (2) A proposed allowance to handlers to cover hauling and handling charges on milk moved during the months of January-July, inclusive, to nonregulated plants for manufacture into evaporated or condensed milk-or cheese.
- (3) A modification of the "allocation" provisions relating to the classification of producer milk.
- (4) A revised method for accomplishing "reconciliation" in connection with the proposed adoption of Class III (a) milk.
- (5) A revision of the provision which classifies milk and cream as Class I milk and Class II milk, respectively, whenever a handler disposes of such milk or cream to a milk plant located beyond a one hundred mile radius from Milwaukee.
- (6) The emergency character of marketing conditions and the need for immediate change in the order provisions.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

(1) The price provisions relating to Class III milk should be revised. As corollary changes the definition of Class III milk should be modified to designate certain product items as "Class III (a) milk." Milk utilized for cheese manufacture should not be reclassified.

The order now provides that the price for Class III milk shall be the higher of the Class IV milk price or the average price paid for the particular month by three specified plants located within the Milwaukee milkshed which are engaged principally in the manufacture of evaporated milk. During most months since the order has been in effect the latter price has been the effective Class III milk price but at times the Class IV price formula has resulted in a higher price. One proposal submitted would price all Class III milk at the average price of the three specified plants while another proposal would designate only certain items of Class III milk (such items to be known as Class III (a) milk) to be priced in this manner.

It is apparent from the record that there are significantly larger volumes of milk to be disposed of for manufacturing in Class III uses than was the case a year ago. Although the number of producers on the Milwaukee market has not changed appreciably in the past year, the production per farm per day by such

producers in March was 443.4 pounds compared with 386.1 pounds in March 1952, a 14.8 percent increase. January and February data also show substantial increases this year over last. Relatively mild weather, abundant food grain supplies on farms, a lower culling rate among herds induced by somewhat lower prices of slaughter cattle in recent months, and continued increases in the productivity of dairy cattle have all contributed to the larger production of recent months. The problem is further aggravated to emergency proportions at this time by the approach of the season when milk supplies in the market normally are at the high for the year. The percentage increase in producer deliveries in 1953 to the Milwaukee market as compared with the same months last year is approximately the same as the increase in milk production for the State of Wisconsin as a whole. For the first three months of 1953 the volume of milk disposed of to non-regulated plants for manufacture increased from 2.27 to 6.5 million pounds, or 2.8 times.

Plants regulated by the order do not maintain sufficient facilities to manufacture the present volume of reserve milk and such milk is utilized for the most part at milk evaporating or condensing plants not subject to the order. Such plants are, and have been for many years, the primary outlets for most handlers for reserve milk not needed in their own plant operations. In some segments of the milkshed such plants represent the only outlets for reserve milk available without the incurrence of sizeable transportation costs. In the present period of increased milk supply it appears that only limited quantities of butterfat in producer milk have been diverted for manufacture into butter, a Class IV milk product. Although one petitioner has disposed of some butterfat from producer milk for utilization m butter at times within the last four months, his current outlet is a condensery plant. One handler testified that his principal outlet for reserve milk is a non-regulated plant making cheddar cheese, the other principal product covered by Class IV milk. Because of an existing contract such handler is obligated to dispose of his entire reserve supply to this cheese manufacturing plant.

It was testified that prices obtainable by handlers for producer milk disposed of to non-regulated condensery plants are somewhat lower than the Class III price required by the order to be paid producers. This results from the fact, previously stated, that the Class IV price formula applies to such milk whenever it produces a price higher than the average price of the nearby condensery plants named in the order. It is indicated on the record that the average of prices paid by the latter plants to regular farmer patrons represents the level of price obtainable by Milwaukee handlers for milk disposed of as either Class III or Class IV milk. In March, the last month for which data are available, the local condensery average was (3.325 per hundredweight as compared with a Class IV price formula price of \$3.457. A lesser difference in favor of the Class IV price existed in February while in January such difference amounted to only ½ cent per hundred-weight. It appears that during recent months there has been some reluctance by condenseries to take larger quantities of milk in addition to shipments by regular farmer patrons. Also, prices required to be paid for milk disposed of in a similar manner under the formula provided in the Chicago order as now in effect are less than those the Milwaukee handler diverting or transferring milk to condenseries must pay since the price at which the Chicago handler must account to producers is based on the average price of 17 representative condensery plants without the application of the Class IV price (similar to that in the Milwaukee order) as a "floor" prico under Class III milk. The circumstances affecting handlers generally in both markets in the disposition of reserve milk—particularly seasonal reserve—are highly similar. (It may be noted that while monthly variations occur, the 17-condensery price in the Chicago order and the 3-condensery price in the Milwaukee order average nearly the same over a period of time. No proposal was made to replace the 3-condensery price with the 17-condensery price in the Milwaukee order) In view of the above considerations, it is concluded that the application of the Class IV price to Class III milk should be removed in the case of disposition for the uses to be designated Class III (a) milk under the Milwaukee order. This would result in Class III (a) milk being priced on the basis of the local condensery price average at all times.

As previously stated, one proposal would have removed the alternative Class IV price formula as to all Class III milk. Testimony offered on behalf of the majority of handlers indicated, however, their belief that the present provision should continue in effect for the time being as to all Class III items other than those to be identified as Class III (a) milk. The record does not disclose that the application of the Class IV price as the minimum price for milk utilized in Class III milk items other than those covered by Class III (a) is no longer reasonable.

It was also proposed that milk used for cheese be classified as Class III (a) instead of Class IV as at present. The single handler who testified that he disposes of reserve milk to a cheese plant and customarily receives for such milk a price equivalent to the average price of the 3 specified condenseries alleges that unless milk for cheese is reclassified he will receive no relief in the pricing of his reserve milk which must find its way into cheese.

The reclassification of milk for cheese necessarily involves a revision of the method or formula for pricing such milk. This proposal relates to an issue, the adoption of a formula for this purpose based on the 'open market prices of cheese, which was considered at a public hearing held in May 1952 on proposed order amendments and in which there is wide interest. The formula proposed by a producers' association at the prior hearing was denied in a decision of the

Secretary issued August 13, 1952, official notice of which is taken. While it should not be denied that a more sensitive and accurate formula for establishing a producer price for milk used as cheese might be developed, it may not be concluded from the present record that the complexities of the problem were fully explored. In view of the known differences in prices payable to farmer patrons between cheese manufacturing plants and condenseries which have occurred in the past, it is concluded that the record does not provide a basis for testing the reasonableness of the proposed pricing method which would accompany reclassification.

It may be noted from the record, however, that in only 7 of the 29 months the order has been in effect has the minimum price of Class IV milk exceeded the monthly average price of the 3 condenseries named in the order. Only 4 of such 7 months may be regarded as months when relatively heavy supplies of milk were available for disposition in Class III and Class IV uses at non-regulated manufacturing plants. Thus, any temporary losses which such handler may have incurred as the result of the Class IV price provisions in the diversion of milk to a cheese plant during a few months have been more than offset by the price differences in favor of such handler in the numerous months when the average cendensery price exceeded the price for Class-IV milk.

(2) A transportation and handling allowance in connection with the disposition of milk for evaporated or condensed milk or cheese should not be adopted.

A proposal was made to provide during the January-July period an allowance of 95 cents per hundredweight for hauling and handling charges incurred on any milk manufactured by a handler or diverted for his account to any plant where (a) no milk is received or bottled for sale as Class I milk in the marketing area, and (b) evaporated milk, condensed milk or cheese is manufactured during the month. It was suggested as an alternative to the 95 cent allowance that a handler might be permitted his own cost of handling and hauling, whatever it might be.

Milk for the above specified uses is disposed of under a variety of circumstances. For example, one handler may utilize milk for such purposes in his city fluid milk plant, or in a separate plant on the same premises as his fluid milk milk a considerable distance to the plant where it is processed. It is clear that the costs of providing and operating the type of facilities required to transport milk across a plant floor or alley may not be comparable with those required to move milk to a distant plant.

In some cases the individual handler may choose to maintain a relatively large volume of producer milk in reserve in connection with his fluid milk operations while others may consistently buy short from regular producers with the intent of procuring supplementary supplies when necessary to fulfill Class I and Class II milk requirements. The handler buying supplementary supplies customarily pays a handling charge to

the seller while the handler carrying sufficient reserves to meet his needs at all times retains such milk at a cost, including the expense of moving such milk to manufacturing plants from time to time, which he determines is justified to assure himself of an adequate supply of producer milk. In the precent unusual supply situation the carrying of reserve milk by a handler may well result in a cost to him greater than that he would incur ordinarily. The handler determines which method of operation is most economical in his particular circumstance. In either case there is a cost involved which is not attributable to order regulation.

The reasonableness of returns to be realized by producers is, of course, of paramount importance in establishing minimum producer prices. Milwaukee producers should be entitled to receive for Class III and Class IV milk, prices which approximate those at manufacturing plants producing similar products, since it is apparent from the record that there is no cheaper milk available in the milkshed. The price formulas adopted should result in a close alignment of prices applicable to reserve milk with the prices representative non-regulated manufacturing plants in the supply area are paying regular farmer patrons. It is concluded that a lesser price would not provide reasonable returns to producers for milk so used.

Concerning the alternative suggestion that the individual handler be allowed his own cost of handling and hauling with respect to milk moved to manufacturing plants, it should be added that even if such an allowance could be accurately established at the exact cost involved, it would be to such handler's financial interest to ship his reserve milk to any distant plant paying even a few cents more than a local or nearby outlet, since reimbursement for the extra haul would result in a correspondingly lower price payable by the handler to his producers. The latter type of allowance would open the way to excessive transportation costs at the expense of producers.

In contrast to the proposals for the types of allowance described, the majority of handlers appear satisfied to dispose of reserve milk at the price to be applicable to Class III (a) milk, subject only to the producers' authorized hauling deductions for regular farm to plant plant, while another may ship whole hauls which the handler receives on milk diverted directly from the farm to a nonregulated manufacturing plant as well as on milk hauled from the farm to the handler's own plant.

A principal objective of the order, as determined by the Congress, is to establish minimum uniform prices to all handlers based on the use classification of milk. It is our view that this objective should be accomplished by a plan of pricing which will encourage the most economical methods of handling the supply of milk produced for the market in its entirety. It is concluded, in view of the preceding, that the problem of disposing of large quantities of Class III and Class IV milk in the face of lower prices at available outlets this spring

can be more equitably and efficiently met by provising a lower price for producer milk disposed of for Class III (a) purposes than by providing a transportation and handling allowance.

(3) The method of allocating monthly inventory, variation in connection with the classification of producer mill: should be revised.

It was testified that under the present allocation provisions of the order no allowance is made for the effect on inventory variation of the presence of "other source milk" in a handler's plant. Other source milk contributes to inventory as well as producer milk and administrative experience indicates that inventory variation should be prorated between producer milk and other source milk based on the quantities of butterfat received from each source. Such proration of inventory variation minimizes, in the months in which the handler has other source milk, the influence of changes in inventory on the handler's uniform price. There would result a narrowing of the spread between the several uniform prices of handlers to the extent that such price differences are caused, in the absence of proration. by inventory variation resulting from other source milk. Over a period of time, however, the dollar and cents return to producers and the cost to the handler would not be appreciably different under the proposed method of prorating inventory than under present order provisions. It is concluded that the change adopted will improve the present method of milk allocation, with resulting benefit in the computation of uniform prices for handlers.
(4) The "reconciliation" provisions

should be modified.

The adoption of the Class III (a) milk category necessitates modification of the method of "reconciliation" if the introduction of Class III (a) milk is to serve its intended purpose. The principle under which reconciliation is accomplished in the present order was set forth in detail in a recommended decision issued August 30, 1951 (16 F.R. 9045) of which official notice is taken. This plan should be retained to the fullest extent consistent with the establishment of Class III (a) milk. However, the introduction of Class III (a) milk requires certain revisions of order language to prevent the occurrence of pricing inequities among handlers and it is for this purpose that the reconciliation provisions are modified.

(5) The provision which classifies fluid milk and cream in Class I milk and Class II milk, respectively, whenever a handler disposes of such milk or cream to a milk plant located beyond one hundred miles from Milwaukee should be deleted for the present.

The record indicates that the problem of disposing of reserve milk for the Milwaukee market has been particularly acute this year, principally in view of the substantial increase in milk production not only in the Milwaukee milkshed but for the State of Wisconsin as a whole. Several nearby plants have been reluctant to receive supplies from handlers under the order. At present the order provides that milk moving a distance of more than one hundred miles from the Milwaukee City Hall shall be classified as Class I milk and cream as Class II milk, and that milk or cream moving to plants less than this distance may be classified according to actual use under specified conditions. The record indicates that it may be necessary for handlers to dispose of milk and cream to be used for manufacturing purposes at somewhat greater distances than this mileage limitation allows. When supplies of milk for a market are greatly in excess of fluid milk and cream requirements, the disposition of such reserve supplies as Class III or Class IV milk should not necessarily be restricted to a limited area in which the manufacturing facilities may not be adequate to handle all the reserve milk supplies of the market. It is concluded that the mileage limitation in this provision should be deleted until further study of its merit is possible.

(6) The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator. Production and Marketing Administration, and the opportunity for exceptions thereto.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the attached order effective would defeat the purpose of such amendments. The time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereto, would reduce the effectiveness of such relief and would tend to prevent the effectuation of the declared policy of the act. The omission of the recommended decision and filing of exceptions thereto was requested by handlers on the record and no objection was raised by producers.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

- (b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and
- (c) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement upon which a hearing has been held.

Determination of representative period. The month of March 1953 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, now in effect, regulating the handling of milk in the Milwaukee, Wisconsin, marketing area, in the manner set forth in the attached amending order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Milwaukee, Wisconsin, Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Milwaukee, Wisconsin, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington. D. C., this 19th day of May 1953.

[SEAL] E. T. BENSON. Secretary of Agriculture.

Order 1 Amending the Order as Amended, Regulating the Handling of Milk in the Milwaukee, Wisconsin, Marketing Area

§ 907.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing

orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Milwaukee, Wisconsin, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Milwaukee, Wisconsin, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

- 1. Delete § 907.41 (c) and substitute therefor the following:
- (c) Class III milk shall be all milk the butterfat from which is contained
- (1) Evaporated milk, condensed milk. nonfat dry milk solids and whole milk powder (the products specified in this subparagraph are referred to hereinafter as Class III (a) milk)
- (2) Ice cream, ice cream mix, eggnog, topping, casein, yogurt, aerated cream products disposed of with flavor or sweetening added in containers or dispensers under pressure, and bulk fluid milk, bulk fluid skim milk or bulk fluid cream disposed of to bakeries, soup companies, candy manufacturers or other food processors in their capacity as such;
- (3) Any other product not specified as Class I milk, Class II milk or Class IV milk.
- 2. Delete § 907.45 (b) (1) and renumber subparagraphs (2) (3) and (4) of § 907.45 (b) as subparagraphs (1), (2), and (3)
- 3. Delete the introductory language of § 907.46 (e) and substitute therefor the following:
- (e) Determine the total pounds of Class III milk (with Class III (a) milk items computed separately) as follows:

<sup>&</sup>lt;sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

therefor the following:

§ 907.47 Allocation of milk classified. The pounds remaining in each class after including the following computations shall be the amount in such class allocated to producer milk:

(a) Subtract from the pounds of Class IV milk the pounds of shrinkage allowed in such class pursuant to § 907.46 (f) (6) (ii) and the prorated pounds of inventory variation resulting from other source milk;

(b) Subtract in sequence from Class IV milk (other than inventory variation of and shrinkage of producer milk) Class III milk, Class II milk and Class I milk to the extent of the pounds remaining in such classes, the remaining pounds of 3.5 percent milk equivalent of other source milk received: Provided, That for any month for which the announced price of Class III (a) milk is less than the announced price for Class IV milk, such remaining pounds of other source milk shall be subtracted from Class III (a) milk to the extent available prior to any subtraction from other classes pursuant to this paragraph;

(c) Subtract from the pounds of milk remaining in each class (other than shrinkage of producer milk in Class IV milk) the pounds of milk (in Class II milk, Class III milk, and Class IV milk the 3.5 percent milk equivalent of butterfat) received from other handlers and assigned to such class; and

- (d) In the event the total (computed) pounds of milk remaining in the several classes are different from the pounds of milk received from producers (includmg the handler's own farm production) plus the 3.5 percent milk equivalent of butterfat overrun, reconciliation of the difference shall be effected by deducting from, or adding to, as the case may be, (1) the lowest-priced class of milk, such proportionate amount of the difference as the pounds of butterfat in such lowestpriced class are to the pounds of butterfat in all classes, and (2) Class III milk, the remaining pounds of milk to be reconciled, in such sequence; and the handler shall receive debit or credit with respect to such amounts at the announced minimum prices applicable to such classes, respectively, for the month.
- 5. Delete the proviso at the end of § 907.51 (c) and substitute therefor the following: "Provided also, That whenever the price for Class IV milk for the month is higher than the price computed pursuant to this paragraph, the price for Class III (a) milk shall be the latter price and the price for all other Class III milk shall be same as the price for Class IV milk."
- 6. Delete § 907.72 and substitute therefor the following:.

§ 907.72 Excess milk prices. each of the months of April, May and June the uniform prices per hundredweight of excess milk shall be the price of Class III milk (other than Class III (a) milk) computed pursuant to § 907.51 (c) for the respective month, adjusted to the nearest full cent.

4. Delete § 907.47 and substitute Order of Secretary Directing That Referendum Be Conducted Among Producers Supplying Milk in Milwaukee, Wisconsin, Marketing Area, and Designation of Agent to Conduct Such Referendum.

> Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 608c (19)) it is hereby directed that a referendum be conducted among the producers (as defined in the order, as amended, regulating the handling of milk in the Milwaukee. Wisconsin, marketing area) who, during the month of March 1953 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order amending such order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

> H. H. Erdmann is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the Federal REGISTER on August 10, 1950 (15 F. R. 5177)

> [F. R. Doc. 53-4524; Filed, May 21, 1953; 8:55 a. m.]

# DEPARTMENT OF HEALTH, EDU-CATION, AND WELFARE

Social Security Administration I 20 CFR Part 401 1

DISCLOSURE OF INFORMATION IN CONNEC-TION WITH CARE OF CERTAIN INSTITU-TIONALIZED MENTAL INCOMPETERITS

INFORMATION WHICH MAY BE DISCLOSED MOHW OT MAA

Notice is hereby given pursuant to the Administrative Procedure Act approved June 11, 1946, that the amendment to regulation set forth in tentative form below is proposed to be prescribed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare as an amendpresent Social Security ment to Administration Regulation No. 1 as amended (20 CFR 401.1 et seq.) It is proposed to amend the existing regulation by authorizing disclosure of certain types of information to officers and employees of a State agency or institution lawfully charged with supervision of, or financial responsibility for, the care of a mental incompetent confined in a State mental institution, where such information is to be used in connection with the performance by the State agency or institution of its official duties and the information is not elsewhere available.

Prior to the final adoption of the proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Health, Education, and Welfare Building, Fourth assigned to a channel available for such

and Independence Avenue SW., Washington 25, D. C., within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendments are to be issued under the authority contained in sections 205 (a) 1102, and 1106, of the Social Security Act (53 Stat. 1363, 49 Stat. 647, 64 Stat. 559) and 45 CFR 1.21.

W. L. MITCHELL. Acting Commissioner of Social Security.

Approved: May 15, 1953.

OVETA CULP HOBBY. Secretary of Health, Education, and Welfare.

Section 401.3 of Regulation No. 1 as amended (20 CFR 401.3) is further amended by adding a new paragraph (n) reading as follows:

§ 401.3 Information which may be disclosed and to whom. Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

(n) To any officer or employee of an agency of a State Government lawfully charged with the supervision of, or financial responsibility for, the care of a person who is mentally incompetent and who is confined in a State mental institution, information regarding his entitlement to benefits, and if entitled, the amount of such benefits and the name and address of the person to whom such benefits have been or are being paid. Disclosure under this section shall be made only upon written certification by the State agency or institution that such information is to be used in connection with the performance of its duties under State law and that there is no other source from which it can obtain such information.

[F. R. Doc. 53-4492; Filed, May 21, 1953; 8:47 a. m.]

# FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 10509]

STANDARD BEOADCAST STATIONS

ENGINEERING STANDARDS OF ALLOCATION

In the matter of amendment of section 1 of the Standards of Good Engineering **Practice Concerning Standard Broadcast** Stations; Docket No. 10509.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

- 2. The Commission has reviewed the provisions of its Standards of Good Engineering Practice Concerning Standard Broadcast Stations with respect to the requirements of the so-called "10% rule" and believes that a revision of these requirements is warranted.
- 3. The ninth paragraph of section 1 of the Standards of Good Engineering Practice provides as follows:

A Class II. III-B or IV station may be

class, when a need therefor is shown, even though objectionable interference will be received to a field intensity contour greater than that specified as the normally protected contour for its class, provided that no objectionable interference will be caused by it to existing stations, and provided further, that the population residing in the area between the normally protected contour for its class and the contour to which objectionable interference will be received, does not exceed approximately 10 percent of the population in its actual primary service area. In case the station is located in a metropolitan area, the interference-free contour shall include 90 percent of the population of the metropolitan area.

4. On the basis of our experience in the administration of the foregoing requirements, we are of the view that the limitations thus imposed constitute unnecessarily rigid limitations on the assignments of Class II, III and IV stations. We are of the view that the foregoing requirements should be relaxed in order to permit the assignment of a station to a community not having its first station and also to permit such assignments in which 25 percent or more of the new proposed primary service is without primary service. Further, we believe that the requirement that the interference-free contour of stations located in the metropolitan area include 90 percent of the population in the metropolitan area is again unduly restrictive. On the basis of our experience we find that in many instances the foregoing requirement is impractical particularly in many of the larger metropolitan districts.

5. Accordingly, it is proposed to amend section 1 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations as follows:

Delete the ninth paragraph set forth above and substitute therefor the following:

Upon showing that a need exists, a Class II, III or IV station may be assigned to a channel available for such class, even though interference will be received within its normally protected contour provided: (1) No objectionable interference will be caused by it to existing stations or that if interference will be caused the need for the proposed service outweighs the need for the service which will be lost by reason of such interference; and (2) primary service will be provided to the community in which the station is to be located; and (3) the assignment meets any one of the following conditions:

(a) The proposed station will provide a transmission facility either daytime or nighttime, for a community not having such a standard broadcast facility or

(b) 25 percent or more of the new primary service area of the proposed station either daytime or nighttime, is without primary service; or

(c) The interference does not affect more than 10 percent of the population in the proposed station's normally protected primary service area.

6. Authority for the adoption of the proposed amendments is contained in

sections 4 (i) 303 (f) and 303 (r) of the Communications Act of 1934, as amended.

7. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before June 29, 1953, a written statement or brief setting forth comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 10 days from the last date for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action on this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or argument will be given.

8. In accordance with the provisions of § 1.784 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: May 13, 1953.

Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, Secretary.

[F R. Doc. 53-4518; Filed, May 21, 1953; 8:53 a. m.]

# [ 47 CFR Parts 7, 8 ]

[Docket No. 10377]

STATIONS ON LAND AND ON SHIPBOARD IN MARITIME SERVICE

ASSIGNMENT AND DELETION OF FREQUENCIES

In the matter of amendment of Parts 7 and 8 of the Commission's rules to delete authority for operation by coast stations, ship stations and aircraft stations on currently assignable frequencies for telephony within the band 4000 kc to 18,000 kc; and to include authority for operation by such stations on other frequencies for telephony within the same bands; Docket No. 10377.

1. On May 6, 1953, the Commission adopted a report and order in the above designated docket finalizing, among other matters, a plan of assignment for the Great Lakes area which would be used as a basis for carrying out the Maritime Mobile radiotelephone portion of the Geneva Agreement (1951) in the frequency bands between 4000 and 18,000 kc. It was stated that effective dates of deletion of existing frequencies and availability of new frequencies would be the subject of later proceedings. Accordingly, under the authority recited in the initial notice of proposed rule making this is the first of such proceedings, the details of which are set forth below.

2. In order to facilitate the changes in frequency assignments which will be necessary in the Great Lakes area under the above-referred-to plan, it is proposed to specify dates of availability and deletion of frequencies which would permit accomplishment of most of these changes

during the 1953-1954 winter lay up season. However, in order to aid in the introduction of the Aeronautical Mobile (R) North Atlantic Route planned family of frequencies, the ship telephone frequency, 6660 kc, would be deleted from the rules as of November 1, 1953. Further, the frequencies, 4282.5 kc (coast) and 4422.5 kc (ship) would not be deleted until March 15, 1954 in view of the fact that some vessels, such as car ferries, operate on certain routes through the winter season.

3. Any interested person who is of the opinion that the amendments proposed herein should not be adopted and any person desiring to support this proposal may file with the Commission on or before June 12, 1953, a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last day for filing the original comments. Fifteen copies of all such comments shall be furnished. The Commission will consider all comments received before taking final action in this matter.

Adopted: May 13, 1953. Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] T. J. SLOWIE,
Secretary.

A. The following frequencies in kilocycles currently available to coast and ship stations in the Great Lakes area as assignable carrier frequencies for telephony would be deleted as of the dates indicated:

Coast -	Ship
4282.5 Mar. 15, 1954.	4422.5 Mar. 15, 1954.
6470.0 Jan. 15, 1954.	6660.0 Nov. 1, 1953.
8585.0 Jan. 15, 1954.	8820.0 Jan. 15, 1954.

B. The following frequencies in kilocycles would become available to coast and ship stations in the Great Lakes area as assignable carrier frequencies for telephony on the dates indicated:

Coast			Ship				
4420.7	Nov.	1,	1953.1	4115.3	Nov.	1,	1953.
4434.5	Nov.	1,	1953.1	4129.1	Nov.	1,	1953.
97073	MOW	1	1052 2	9249 1	Nov	1	1053

<sup>1</sup>For test purposes only, on condition that interference shall not be caused to any maritime mobile telephone service of the Great Lakes area conducted on 4422.5 kc; available for regular service without this limitation beginning Mar. 15, 1954.

<sup>2</sup>For test purposes only, on condition that interference shall not be caused to any maritime mobile telephone service of the Great Lakes area conducted on 8820 kc; available for regular service without this limitation beginning Jan. 15, 1954.

[F. R. Doc. 53-4519; Filed, May 21, 1953; 8:53 a. m.]

## [ 47 CFR Parts 10, 11, 16 ]

[Docket No. 10500]

Public Safety, Industrial, and Land Transportation Radio Services

OPERATIONAL FIXED STATIONS

In the matter of amendments of Parts 10, 11 and 16 of the Commission's rules to establish certain new provisions ro-

garding operational fixed stations operating on-frequencies above 890 Mc., Docket No. 10500.

- 1. Notice is hereby given of proposed rule making in the above entitled matter.
- 2. In accordance with the provisions of the Table of Frequency Allocations contained in Part 2 of the Commission's rules, all frequencies within certain specified frequency bands above 890 Mcs are available for assignment to operational fixed stations in the Public Safety. Industrial, Land Transportation, Aviation, and Marine Radio Services. The only restrictions presently applicable as to the specific frequencies to be assigned within those bands are the provisions of footnotes NG13 and NG15 to the Table of Frequency Allocations which, in effect, provide that the occupation of certain bands shall be progressive from one edge of each such band, beginning, respectively, with the low frequency edge or the high frequency edge of the band \_ in question.
- 3. Until recently, because of the scarcity and experimental nature of equipment designed for operation on frequencies above 890 Mc, as well as uncertainty as to the ultimate usage and capabilities of such equipment, it has not been considered appropriate to standardize on the specific frequencies to be assigned in the bands above 890 Mc or to establish uniform technical standards for the stations operating on those bands. Within the past year, however, this situation has changed to some extent and suitable equipment has become available and 1s finding sufficiently wide usage to indicate a need for some degree of standardization in the bands in which the majority of operation is taking place. With respect to the band 952-960 Mc, particularly, it now appears appropriate that specific frequencies be designated for assignment, and that minimum technical standards be established, for the purpose of pro-moting orderly and efficient utilization of that band under conditions which, in any given area, may be expected to result in the minimum possibility of interference between stations operated by different licensees. Such action also appears reasonable in view of the degree of technical uniformity already attained by the manufacturers and users of equipment in this band, with respect to both the equipment and its operation.
  - 4. Accordingly, the Commission proposes to amend Parts 10, 11 and 16 of its rules to set forth: (a) The preferred frequencies for assignment to stations for operation in the 952-960 Mc band, (b) the maximum frequency tolerance and the maximum band width of emission to be authorized stations operating in that band, and (c) certain general provisions and exceptions to be made applicable to all cases of developmental authorization for operation of operational fixed stations
  - all cases of developmental authorization for operation of operational fixed stations on frequencies above 890 Mc. 5. The proposed amendments, which are set forth in detail below, are issued pursuant to authority contained in sec-

of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the amendments of the

tions 303(c) (e) (f) and (r) and 4 (i)

rules should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or before June 30, 1953, a written statement or brief setting forth his comments. At the same time persons favoring the adoption of the amendments as proposed may file statements in support thereof. Comments or briefs in reply to the original comments or briefs of other parties may be filed within tendays from the last day for filing said original comments or briefs. The Commission will consider these written comments, and if comments are submitted which appear to warrant the holding of an oral argument before final action in this matter is taken, notice of time and place of such oral argument will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and fourteen copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: May 13, 1953.

Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,

Secretary.

1. It is proposed to amend the following parts of the Commission's rules and regulations to provide that the respective indicated sections shall not be applicable in those cases where the authorized developmental operation of an operational fixed station, or of individual units of its equipment, takes place exclusively on frequencies above 890 Mc:

Part 10	Part 11	Part 16
10.105	11.105	16,105
10.107 (b)	11.107 (b)	16.107 (b)
10.107 (c)	11.107 (c)	16.107 (c)
10.107 (d)	11.107 (d)	16.107 (d)
10.107 (e)	11.107 (e)	16.107 (e)
10.108 (b)	11.103 (b)	16.103 (b)
10.108 (c)	11.108 (c)	16.108 (c)
10.151 (d)	11.151 (d)	16.151 (d)
10.152 (c)	11.152 (a)	16.152
10.155 (e)	11.154 (c)	16.154 (e)
10.161 (c)	11.160 (c)	18.169 (c)

- 2. It is proposed to amend §§ 10.203, 11.203 and 16.203 to read as follows:
- § 10.203, § 11.203, § 16.203 Limitations on use. Stations authorized for developmental operation shall be constructed and operated in such a manner as to conform with all of the applicable requirements of this part unless deviation therefrom is specifically provided in the instrument of authorization.
- 3. It is proposed to amend §§ 10.205, 11.205 and 16.205 by inserting "(a)" at the beginning of the respective existing paragraphs and adding new paragraphs (b) to each as follows:
- (b) The provisions of paragraph (a) of this section do not apply when authorization is granted for developmental operation rather than regular operation solely because such operation is to take place exclusively on frequencies above 890 Mc; however, the specific frequencies or types of emission which are authorized for such developmental operation above 890 Mc shall be subject to change or modification at any time, upon rea-

sonable notice but without hearing, if, in the opinion of the Commission, circumstances should so require.

4. It is proposed to add two new sections to Subparts E (Developmental Operation) of Parts 10, 11 and 16, to read as follows:

§10.210, § 11.210, § 16.210 Selection of frequencies in the bands above 890 Mc. (a) The following frequency table is established as a guide in the selection of frequencies for assignment to operational fixed stations in the band 952–960 Mc:

Pair No	Frequency (IIc) 959.7-956.1
1	939.7-936.1
	959.1-955.5
3	938.5-934.9
	957.9-954.3
	957.3-953.7
6	956.7-953.1
73	959.1-952.5

This frequency pair is not available if pair No. 1 is already assigned to a station with which mutual harmful interference might result. In general, the frequencies 959.7, 959.1 and 952.5 Mc should be selected in those cases where three frequencies are necessary to permit simultaneous transmission to and reception from two points at a third point over substantially a single transmission path.

The above table establishes the spacing between the frequencies in a pair for full duplex operation as 3.6 Mc; however, deviations from the table will be authorized upon an adequate showing of need therefor. In any event, frequencies will be selected for assignment in such a manner that the highest frequency or pair of frequencies is employed which will not cause harmful interference to stations in the same geographical area already assigned frequencies in the band 952–960 Mc.

(b) In general, not more than two discrete frequencies will be assigned to a licensee within the frequency range 890 Mc to 5000 Mc for mobile service or operational fixed operations, and not more than four discrete frequencies will be assigned when frequencies above 5000 Mc are utilized. However, additional frequencies may be assigned provided the request therefor is adequately supported by a satisfactory showing of need.

(c) In those bands of frequencies above 830 Mc which are available to stations in these services the Commission may assign frequencies within the capabilities of the proposed equipment which are other than those requested by the applicant, or may require the amend-ment of an application to specify frequencies different from those originally requested, whenever it appears that such action is necessary or advisable (1) to conform with the provisions of this chapter with respect to the allocation and assignment of frequencies, (2) to avoid the possibility of harmful interference to other stations already assigned frequencies in accordance with the Commission's table of frequency allocations, or (3) to permit maximum utilization of the frequency band involved.

§ 10.211, § 11.211, § 16.211 Special technical standards on frequencies above 890 Mc. (a) Each application for new station authorization specifying an op-

erating frequency above 890 Mc shall fully describe the type of emission desired to be utilized and the purpose for which such emission is required (i. e. telephony telemetering, signalling, etc.) and, if multiplexed operation is intended, the maximum number of sub-carrier channels that will be provided or used for each function.

(b) In the band of frequencies 952-960 Mc, a maximum band width of emission of 500 kc will be authorized upon

showing of need therefor.

(c) The carrier frequency of each transmitter authorized to operate in the band of frequencies 952-960 Mc shall be maintained within 0.005 percent of the

assigned frequency.

(d) Where not specifically provided by this chapter, or where the existing provisions of this chapter are found inappropriate because of the order of operating frequencies involved, special technical standards applicable to those transmitters licensed in these services for operation on frequencies above 890 Mc will be individually specified in their respective instruments of authorization. [F. R. Doc. 53-4520; Filed, May 21, 1953;

#### I 47 CFR Part 12 I

8:53 a. m.l

[Docket No. 10501]

AMATEUR RADIO SERVICE

REQUIREMENTS FOR PORTABLE AND MOBILE OPERATION

In the matter of petition of the Maritime Mobile Amateur Radio Club for amendment of § 12.91 (b) of Part 12, rules governing Amateur Radio Service, to permit maritime mobile amateur radio stations to operate on frequencies in the band 21,000-21,450 kc when outside the continental limits of the United States, its territories and possessions; Docket No. 10501.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. Section 12.91 (b) of Part 12, rules governing Amateur Radio Service, now provides that portable or mobile amateur radio stations outside the continental limits of the United States, its territories and possessions may be operated only on frequencies in the band 28.0-29.7 Mc, except that within areas under the jurisdiction of a foreign government, operation is controlled by the laws of that government. The Maritime Mobile Amateur Radio Club of Pittsburgh, Pennsylvania, has filed a petition with the Commission in which it is requested that § 12.91 (b) be amended to the extent that such stations be allowed, additionally, to operate on frequencies in the band 21,000-21,450 kc. This frequency band is allocated under the Commission's rules to the Amateur Radio Service and is available to amateurs in the continental limits of the United States, its territories and possessions. The frequency band is also allocated by the Atlantic City Table of Frequency Alloca-

tions to the amateur radio service upon a world-wide basis, hence it may be made available for portable and mobile amateur radio stations subject to the limitations presently applicable to such operation in the 28.0-29.7 Mc frequency band. A number of countries throughout the world have also made this band available to their amateur stations. Accordingly, the Commission proposes to amend § 12.91 (b) in the manner suggested. The proposal appears below.

3. The proposed amendment is issued under the authority of sections 4 (i) and 303 (c) of the Communications Act of

1934, as amended.

4. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth, may file with the Commission on or before August 1, 1953, a written statement or brief setting forth his comments. At the same time any person who favors the amendment as set forth may file a statement in support thereof. Comments or briefs in reply to the original comments or briefs may be filed within 15 days from the last day for filing the said original comments or briefs. The Commission will consider all such comments, briefs and statements before taking final action. If any comments are received which appear to warrant the Commission in holding an oral argument before final action is taken, notice of the time and place of such oral argument will be given such interested parties.

5. In accordance with the provisions of § 1.764 of the Commission's rules, an original and three copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: May 13, 1953.

[SEAL]

Released: May 15, 1953.

FEDERAL COMMUNICATIONS COMMISSION, T. J. SLOWIE, Secretary.

It is proposed to amend § 12.91 (b) of Part 12, rules governing Amateur Radio Service, to read as follows:

(b) Outside the continental limits of the United States, its territories or possessions, an amateur station may be operated as portable or mobile only in the amateur bands 21.0 to 21.45 Mc and 28.0 to 29.7 Mc except that within areas under the jurisdiction of a foreign government, operation is controlled by the laws of that government and the terms of any applicable treaty. (See Appendix 4 of this part for such treaties or agreements as are in force and the pertinent terms thereof.) Whenever such portable or mobile operation is, or is likely to be, for a period in excess of 48 hours away from the continental limits of the United States, its territories or possessions, the licensee shall give prior written notice to the Engineer in Charge of the radio inspection district in which the fixed transmitter site designated in the station license is located. Only one such notice shall be required during any continued absence from the continental lim-

its of the United States, its territories or possessions.

[F. R. Doc. 53-4521; Filed, May 21, 1953; 8:54 a. m.]

#### [ 47 CFR Part 14 ]

[Docket No. 10503]

RADIO STATIONS IN ALASKA OTHER THAN AMATEUR AND BROADCAST

FIXED COASTAL AND SHIP STATIONS

In the matter of amendment of Part 14 of the Commission's rules to delete authority for operation by fixed, coastal and ship stations in Alaska on the frequency 5137.5 kc using telegraphy and telephony; Docket No. 10503.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission proposes to amend Part 14 of its rules to delete, as of September 1, 1953, the frequency 5137.5 kc from §§ 14.14, 14.32, and 14.53 which now provide for the use of that frequency in Alaska for telephone and telegraph operation by public coastal and fixed public stations and by ship stations on a secondary basis.

3. The frequency involved in this notice of proposed rule making is in the frequency band 5060-5250 kc allocated in the Atlantic City Table of Frequency Allocations to the fixed service. This proposed rule change is for the purpose of deleting the availability of the frequency 5137.5 kc for out-of-band use by coastal and ship stations and providing a replacement frequency for currently out-of-band aeronautical fixed operations in Alaska which cannot satisfactorily share the use of this frequency with existing fixed public operations on the same frequency.

4. The proposed amendment is issued pursuant to the authority of sections 303 (c) (f) and (r) of the Communications Act of 1934, as amended, the Final Acts of the International Telecommunication and Radio Conferences, Atlantic City (1947) and the Agreement concluded at the Extraordinary Administrative Radio

Conference (Geneva, 1951)

5. Any interested person who is of the opinion that the amendment proposed herein should not be adopted and any person desiring to support this proposal may file with the Commission on or before July 13, 1953, a written statement or brief setting forth his comments. Replies to such comments may be filed within five days from the last day for filing the original comments. Fifteen copies of all such comments shall be furnished. The Commission will consider all comments received before taking final action in this matter.

Adopted: May 13, 1953. Released: May 18, 1953.

> FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, Secretary.

[F. R. Doc. 53-4522; Filed, May 21, 1953; 8:54 a. m.]

# NATIONAL MEDIATION EOARD [ 29 CFR Part 1206 ]

HANDLING OF REPRESENTATION DISPUTES UNDER RAILWAY LABOR ACT

REPEAT ELECTIONS: PERCENTAGE OF VALID AUTHORIZATIONS REQUIRED TO DETERMINE EXISTENCE OF REPRESENTATION DISPUTE

1. Reference is made to notice of proposed rule making which was issued by order of the National Mediation Board on May 12, 1953, and published in the Federal Register for May 16, 1953.

2. The public hearing referred to in the above mentioned notice of proposed rule making will be held at 10:00 a. m., June 2, 1953, Conference Room "B" adjacent to the Departmental Auditorium. Labor Department, Fourteenth and Constitution Avenue NW., Washington, D. C.

3. Petition has been received by the National Mediation Board from the United Railroad Operating Crafts, a labor organization of railroad employees, to amend § 1206.2 (Rule 2 of the National Mediation Board's existing rules and regulations issued May 1, 1947) to read as follows:

§ 1206.2 Percentage of valid authorizations required to determine existence of a representation dispute. (a) Where the employees involved in a representation dispute are represented by an individual or labor organization, either local or national in scope, and are covered by a valid existing contract between such representative and the carrier, a showing of proved authorizations (checked and verified as to date, signature and employment status) from at least a majority of the craft or class must be made before the National Mediation Board will authorize an election or otherwise determine the representation desires of the employees under the provisions of section 2, Ninth, of the Railway Labor

Act. The determination of whether an applicant has made a showing of proved authorizations from a majority or more of the employees in the craft or class shall be made by reference to the employees in the service of the carrier in said craft or class on the date of the filing with the National Mediation Board of the application for the adjustment of the dispute.

(b) Where the employees involved in a representation dispute are unrepresented, a showing of proved authorizations from at least thirty-five (35) per-cent of the employees in the craft or class must be made before the National Mediation Board will authorize an election or otherwise determine the representation desires of the employees under the provisions of section 2, Ninth, of the Railway Labor Act. The determination of whether an applicant has made a showing of proved authorizations from thirty-five (35) percent or more of the employees in the craft or class shall be made by reference to the employees in the service of the carrier in said craft or class on the date of the filing with the National Mediation Board of the application for the adjustment of the

4. Statement submitted by the United Railroad Operating Crafts of grounds in support of amendment to § 1206.2 (Rule 2) follows:

Although Section 2. Ninth, of the Railway Labor Act contains an advicory direction to the Board to make its certification within 30 days after receipt of the invocation of its services, the work load of the Board and other practical considerations result in considerably longer periods of waiting between application for certification and resolution of the dispute by means of an election than the stipulated 30-day period.

During this waiting period the total number of employees in the affected craft or class is subject to change. Additionally, there are chifts in the composition of the affected class or craft.

These changes are due, in part, to the labor turnover normally experienced by all industry, including the railroad industry. Additionally, however, in the railroad inductry it is not unusual, upon changes in the work load, for there to be shifts of em-ployees into and out of the various classes and crafts. Thus, when the labor force is reduced, engineers with limited seniority, move down to firemen jobs. Conversely, when the work load increases, upward shifts cccur.

This change in the number and composition of a craft or class upon which certifica-tion proceedings are pending, introduces confusion with respect to the calculations of a majority of authorization cards. Clarification of this situation is sought by the proposed amendment for the benefit of all the parties to certification proceedings and the Board.

It is cubmitted that this clarification can be achieved by establishing a specific date as of which the determination of the sum-clency of applicant's authorizations will be determined. This date should be the date that the application for investigation of a dispute is received by the Board. Use of this date, rather than a later one, would corve the beneficial purpose of expediting the process of determining whether a majority of authorizations has been submitted or not.

5. The public hearing referred to above will be expanded to afford all interested parties an opportunity to present views and arguments in connection with the patition of the United Railroad Operating Crafts to amend § 1206.2 (Rule 2 of the National Mediation Board's present rules and regulations)

By order of the National Mediation Board at Washington, D. C., this 18th day of May 1953.

[SEAL]

E. C. THOMPSON, Secretary.

[F. R. Doc. 53-4484; Filed, May 21, 1953; 8:46 a. m.l

# NOTICES

## DEPARTMENT OF THE TREASURY

Office of the Secretary

ITreasury Department Order 167-31 ICGFR 52-601

COMMANDANT, U. S. COAST GUARD

DELEGATION OF FUNCTIONS TO THE COMMANDANT

Pursuant to the authority vested in me as Secretary of the Treasury, including the authority in title 14, United States Code, specifically sections 92, 631, and 633, and the authority in Reorganization Plan No. 26 of 1950 (15 F. R. 4935), there are hereby delegated to the Commandant, United States Coast Guard, the functions of the Secretary of the Treasury set forth below. The Commandant is authorized to redelegate any function herein delegated to the extent that he may deem to be necessary or appropriate, except that the Commandant is not authorized to redelegate the functions set forth in items (5), and (32)-(36) The functions herein delegated include those vested in me by:

(1) 14 U.S. C. 183, to prescribe a sum which shall be credited to each new cadet upon first admission to the Academy, to cover the cost of his initial clothing and equipment issue;

(2) 14 U.S. C. 464, to prescribe regulations concerning the making of allot-

ments from pay;
(3) 14 U. S. C. 465, to prescribe regulations concerning advances of pay to

(4) 14 U.S. C. 478, to prescribe regulations concerning allowances for rations and commutation thereof in money.

(5) 14 U.S.C. 487, to designate stores which may be procured and sold to Coast Guard personnel or their widows, and to designate other persons to whom such stores may be sold;

(6) 14 U. S. C. 488, to prescribe regulations concerning advancement of relating to the disposition of the remains

public funds to personnel when required to meet expenses of officers and men detailed on emergency shore duty

(7) 14 U. S. C. 489, to exercise the authority and duty vested in the Secretary of the Navy by provisions of law relating to the payment of death gratuties in the application and administration of such laws to the Coast Guard:

(8) 14 U.S.C. 490, to consider, ascertain, adjust, determine, settle, and pay claims against the United States of military personnel and civilian em-ployees of the Coast Guard, and to prescribe regulations concerning the manner in which such claims shall be substantiated and the property determined to be reasonable, useful, necessary or proper under the attendant circumstances, and other regulations concerning the settlement of claims;

(9) 14 U.S. C. 504, to exercise the authority and duty vested in the Secretary of the Navy by provisions of law of military and civilian personnel in the application and administration of such laws to the Coast Guard;

(10) 14 U.S. C. 505, to furnish escorts for deceased officers and enlisted men;

(11) 14 U. S. C. 507, to make diligent inquiry after the death of a person in the Coast Guard to ascertain the whereabouts of his heirs or next of kin, and to prescribe regulations to carry out the provisions of this section;

(12) Section 1 of the act of April 14, 1949, c. 50, 63 Stat. 44 (5 U. S. C. Sup. 150e) to dispose of lost, abandoned, and unclaimed personal property in the possession, custody, or control of the Coast

Guard;

(13) 14 U. S. C. 509, to fix amounts of allowances to prisoners;

(14) 14 U. S. C. 648, to prescribe regulations governing accounting for industrial work;

(15) 14 U.S. C. 650, to prescribe regulations governing the charging and crediting of the Coast Guard Supply Fund:

(16) 14 U. S. C. 831, to prescribe regulations governing the payment of necessary travelling expenses of members of the Auxiliary;

(17) Section 201 (d) of the Career Compensation Act of 1949, as amended (37 U. S. C., Sup., 232 (d)) to distribute enlisted persons in the various pay grades for basic pay purposes;

(18) Section 202 (c) of the Career Compensation Act of 1949, as amended (37 U. S. C., Sup., 233 (c)) to prescribe regulations concerning the service includible in the determination of periods of time which may be counted in the computation of basic pay.

(19) Section 205 of the Career Compensation Act of 1949, as amended (37 U. S. C., Sup., 236) to prescribe regulations concerning entitlement to special

pay for diving-duty.

(20) Section 207 of the Career Compensation Act of 1949, as amended (37 U. S. C., Sup., 238) to determine the period of time from date of discharge or separation within which members of the Coast Guard may be paid a reenlistment bonus, to prescribe regulations concerning the refunding by Coast Guard personnel of reenlistment bonuses, and to prescribe other regulations which may be deemed necessary for the administration of this section;

(21) Section 503 of the Career Compensation Act of 1949, as amended (37 U. S. C., Sup., 303) to make findings that marriages were entered into in good faith on the part of personnel in the Coast Guard:

(22) Section 243 (d) of the Armed Forces Reserve Act of 1952, Public Law 476, 82d Congress, to approve regulations concerning reimbursement for uniforms and equipment upon transfer to or appointment in another reserve component;

(23) Section 3 of the act of March 7, 1942, as amended (50 U. S. C. App., 1003) to authorize new allotments or increases in allotments from the pay of missing, interned, or captive persons:

(24) Section 4 of the act of March 7, 1942, as amended (50 U. S. C. App. 1004) to direct the initiation, continuance, discontinuance, increase, de-

crease, suspension, or resumption of allotments from the pay and allowances of persons entitled to receive or be credited with pay and allowances under section 2 of the act of March 7, 1942, as amended:

(25) Section 5 of the act of March 7, 1942, as amended (50 U.S. C. App. 1005) to cause review of cases of missing persons, and to direct the continuance of a person's missing status or to make a finding of death:

finding of death;
(26) Section 7 of the act of March 7,
1942, as amended (50 U. S. C. App. 1007)
to create new allotments and to continue
or change amounts of old allotments;

(27) Section 9 of the act of March 7, 1942, as amended (50 U.S. C. App. 1009) to make all determinations authorized by said section;

(28) Section 10 of the act of March 7, 1942, as amended (50 U. S. C. App. 1010) to make determinations of the fact of dependency.

(29) Section 11 of the act of March 7, 1942, as amended (50 U.S. C. App. 1011) to settle accounts:

(30) Section 12 of the act of March 7, 1942, as amended (50 U.S. C. App. 1012) to make determinations and authorizations concerning the moving of dependents and effects of persons reported as injured, dead, or missing;

(31) Section 10 of the Dependents Assistance Act of 1950, 64 Stat. 796, 50 U. S. C. App., Sup., 2210, to make all waivers and determinations under said act:

(32) 14 U.S. C. 235, to designate and assemble annually a Coast Guard Personnel Board;

(33) 14 U. S. C. 244, and as appointing officer, to take final action on individual requests for revocation of appointments for temporary service as commissioned, commissioned warrant, and warrant officers, including revocation of such appointments;

(34) 14 U. S. C. 243, 313, and 362, 34 U. S. C. 350i, and 37 U. S. C. 272 to determine, upon retirement of an officer or enlisted person, the highest grade or rating in which his performance of duty was satisfactory.

(35) 14 U.S. C. 224, to determine the precedence of appointees whose dates of commission are the same; and

(36) 14 U.S. C. 81, 83, 92, 632 and 633. and the Act of April 8, 1908, as amended (46 U. S. C. 454-457) to issue regulations governing the establishment, erection, maintenance, modification, and discontinuance of aids to navigation, including regulations pertaining to private aids to navigation, the lighting of bridges, the marking of wrecks and the dissemination of information concerning aids to navigation, regulations interpreting or applying statutory provisions relating to penalties and liabilities for obstruction of, interference with. or damage to aids to navigation, and regulations establishing charges for the performance of aids to navigation work by the Coast Guard.

[SEAL] . M. B. FOLSOM, Acting Secretary of the Treasury. May 6, 1953.

[F. R. Doc. 53-4510; Filed, May 21, 1953; 8:50 a. m.]

#### **United States Coast Guard**

[CGFR 53-21]

'Approval of Equipment and Change in Manufacturer's Address

Correction

In Federal Register Document 53-4411, published at page 2882 of the issue for Tuesday, May 19, 1953, the following changes should be made:

1. In the table in the first column on page 2883, the size for approval number 160.008/543/0, now reading "9 x 28 x 2",

should read "9 x 38 x 2"

2. In the third and fourth lines of the middle column on page 2885 the name "Oceans-Lite Decking" should read "Ocean-Lite Decking"

#### DEPARTMENT OF COMMERCE

#### Federal Maritime Board

MEMBER LINES OF TRANS-PACIFIC PASSENGER CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 131–217, between the Member Lines of the Trans-Pacific Passenger Conference, modifies the basic agreement of that Conference (No. 131) to include a new By-Law providing that on through traffic between Europe and the Orient-New Zealand-Australia via North America a reduction may be allowed from established fares, as unanimously agreed by the regular members.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the Federal Register, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: May 19, 1953.

By order of the Federal Maritime Board.

[SEAL]

A. J. Williams, Secretary.

[F. R. Doc. 53-4507; Filed, May 21, 1953; 8:50 a. m.]

#### Office of International Trade

RAFAEL BENAVENTES-ACOSTA ET AL.

ORDER REVOKING LICENSES AND TEMPORAR-ILY DENYING EXPORT PRIVILEGES

In the matter of Rafael Benaventes-Acosta, individually and trading as Botica Hidalgo, P O. Box 931, Calexico, California, and 170 Azueta Avenue, Mexicali, B. C., Mexico; Jesus Peralta-Yepiz, 607 Aguascalientes Avenue, Mexicali, B. C., Mexico; Francisco Fajardo-

Duarte, Mexicali, B. C., Mexico, respondents

Pursuant to the provisions of § 382.11 of the Export Control Regulations (15 CFR, Chapter III, Subchapter C) the C Director of the Investigation Staff of the Office of International Trade, United States Department of Commerce, filed an application with Compliance Commissioner Paul M. Greene, requesting that the above-named respondents be suspended for a period of sixty (60) days from participating, directly or indirectly, in the exportation of any commodities from the United States to any destination under validated and general license, and of exportations to Canada, and the receiving, using, and utilizing of such commodities in Mexico or other foreign country in any manner or capacity, directly or indirectly.

The Compliance Commissioner, having considered the aforementioned application, together with the evidence in support thereof, has recommended that the temporary suspension order requested by the Director of the Investigation Staff be issued. It appears from the said application, the supporting evidence, and the recommendations of the Compliance Commissioner that the abovenamed respondents, and others, have unlawfully brought, or caused to be brought, into Mexico from the United States, between January 1, 1951, and March 23, 1953, large quantities of antibiotic drugs of United States origin consigned to Botica Hidalgo in Mexico, by smuggling same from the United States into Mexico in knowing violation of United States laws, specifically, of the Export Control Act of 1949, as amended, and the regulations promulgated thereunder. It appears further that since October 1951 there have been three major seizures by United States Customs officials of antibiotic drugs consigned to Botica Hidalgo; that two of these cases resulted in default forfeiture to the United States; that one amounted to a seizure of antibiotics of almost \$4,000 in value, and a second seizure totaling approximately \$11,000 in value; and that in addition there is a case pending involving a seizure of some \$1,000 to \$1,500 worth of antibiotics. It appears further that there is reasonable cause to believe that such smuggling operations of United States origin antibiotics into Mexico is continuing by respondents, and others, and that such operations may continue in the future to the detriment of United States export control policy and law and the adverse effect upon the economy and security of the United States. It is known, moreover, that purchases of large quantities of antibiotics from the United States (and possibly other purchases of the same or other commodities from the United States) are being made in the name of Botica Hidalgo for consignment to said firm in Mexico and there is reasonable ground to believe from the foregoing that such purchases of antibiotics may likewise be unlawfully brought into Mexico by said respondents contrary to United States export control law and regulations unless said respondents are prohibited from acquiring such commodities and from hav-

ing any such commodities delivered to them or any of them.

It appears further that an investigation of the foregoing matters is presently being conducted by the Investigation Staff in the United States and abroad and that such investigation is not likely to be completed in less than sixty days; that pending the completion thereof it would be contrary to the public interest to permit respondents to participate in any exports of commodities, from the United States to any foreign country, including Canada; and that the temporary suspension hereinafter provided is reasonable and necessary to protect the public interest pending completion of the aforementioned investigation.

Now, therefore, it is ordered, as follows:

(1) All outstanding validated export licenses in which respondents, or any of them, appear or participate as purchaser, intermediate or ultimate consignee, or otherwise, are revoked and shall forthwith be returned to the Office of International Trade, and delivery of any shipment or shipments of any commodities from the United States exportable under validated export license or general license which may be now or during the term of this order intended for said respondents, or any of them, pursuant to said validated or general export licenses, are prohibited.

(2) Respondents, their successors or assigns, officers, associates, partners, representatives, agents, and/or employees be and they hereby are denied the privilege of exporting, receiving, or otherwise participating, directly or indirectly, in any exportation of any commodity pursuant to validated export license or general license, or of technical data, from the United States to any destination, including exportations to Canada, and of participating, directly or indirectly, in the financing, forwarding, transporting, receiving, or other servicing of such exports.

(3) Such denial of export privileges shall apply not only to the named respondents and each of them, but also to any person, firm, corporation, or business organization with which they, or any of them, may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports of commodities from the United States or the receiving of such exports pursuant to validated and general export licenses.

(4) This order shall be effective from the date of its issuance and for a period of sixty (60) days thereafter except in so far as it may be hereafter extended, amended, or modified in accordance with the provisions of the Export Control Regulations.

(5) A certified true copy of this order shall be served upon the named respondents and each of them.

(6) In accordance with the provisions of § 382.11 (c) of the Export Control Regulations, the respondents may at any time move to vacate or modify this temporary suspension order by filing an appropriate motion therefor with the Compliance Commissioner and may re-

quest oral hearing thereon, which if requested, shall be held before the Compliance Commissioner at the earliest possible date.

Dated: May 18, 1953.

Wallace S. Thomas, Acting Assistant Director, for Export Supply.

[F. R. Doc. 53-4511; Filed, May 21, 1953; 8:51 a.m.]

### DEPARTMENT OF AGRICULTURE

# Production and Marketing Administration

HAVERFIELD LIVESTOCK CO.

DEPOSTING OF STOCKYAED

It has been ascertained that the Haverfield Livestock Company Scott City, Kansas, originally posted on April 15, 1950, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.) no longer comes within the definition of a stockyard under said act. The owners of such stockyard have discontinued operating a public market at the place at Scott City, Kansas, originally posted. Therefore, notice is given to the owners of the stockyard and to the public that such livestock market, originally posted on April 15, 1950, is no longer subject to the provisions of the act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not deposting promptly a stockyard which no longer is within the definition of that term contained in said act.

The foregoing rule is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication thereof in the Federal Register. This notice shall become effective upon publication in the Federal Register.

(42 Stat. 159, as amended and supplemented; 7 U. S. C. 181 et ceq.)

Done at Washington, D. C., this 18th day of May 1953.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Admmustration.

[F. R. Doc. 53-4523; Filed, May 21, 1953; 8:54 a. m.]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 54-209]

STANDARD POWER AND LIGHT CORP.
ONDER APPROVING PLAN

May 18, 1953.

Standard Power and Light Corporation ("Standard Power") a registered holding company, having filed an appli2964 NOTICES

cation pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("the act") for approval of a plan and amendments thereto providing, inter alia, for the complete or partial retirement of its \$7 Cumulative Preferred Stock ("preferred stock")

Public hearings having been duly held after appropriate notice at which hearings all interested persons were afforded

an opportunity to be heard;

Standard Power having requested that the Commission's order approving the plan, as amended, contain recitals in accordance with the provisions of sections 371 and 1808 (f) of the Internal Revenue Code:

The Commission having considered the entire record in this matter and having this day filed its findings and opinion herein finding that the plan, as amended, is necessary to effectuate the provisions of section 11 (b) of the act and fair and equitable to the persons affected thereby

It is ordered, On the basis of the record herein and the said findings and opinion, pursuant to section 11 (e) and other applicable provisions of the act, that said plan, as amended, be, and it hereby is, approved subject to the terms and conditions contained in Rule U-24 of the general rules and regulations promulgated under the act and to the following additional terms and conditions:

- 1. That Standard Power at the time of mailing the offer of exchange to its preferred stockholders shall include therewith a copy of the Commission's findings and opinion and order herein and a copy of the 1952 annual reports to stockholders of Duquesne Light Company and Wisconsin Public Service Corporation.
- 2. That Standard Power shall pay only such fees and expenses in connection with this plan, as amended, all prior plans under section 11 of the act, and the transactions incident thereto and related proceedings, as the Commission may approve and direct on appropriate application made to it.
- 3. That jurisdiction be and it hereby is specifically reserved with respect to the following matters:
- a. The supervision of efforts to locate holders of preferred stock to be redeemed for cash under the provisions of the plan, as amended.
- b. The appropriateness of the accounting entries to be made by Standard Power in recording the transactions incident to the consummation of the plan, as amended.
- c. The terms and conditions of the bank loan to be incurred by Standard Power.
- d. The treatment of the preferred stock, if any, not retired pursuant to the instant plan, as amended.
- e. The entertaining of such further proceedings, the entering of such further orders and the taking of such further action, including the reexamination of the Commission's conclusion as to fairness, as may be necessary or appropriate in connection with the plan, as amended, the transactions incident thereto and the consummation thereof.

It is further ordered and recited, That all steps and transactions involved in the consummation of the plan, as amended,

including particularly the following transactions, are necessary or approprate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

- 1. The transfer, delivery and surrender by holders of the \$7 Cumulative Preferred stock of Standard Power to the Corporation and the transfer, delivery and payment by Standard Power in exchange therefor to such shareholders of common stock of Duquesne Light Company, common stock of Wisconsin Public Service Corporation and cash.
- 2. The transfer, delivery and surrender by holders of the \$7 Cumulative Preferred stock of Standard Power to the Corporation in exchange for cash pursuant to the call by Standard Power of any balance of said stock not exchanged under the voluntary offer.

By the Commission.

[SEAL]

ORVAL L. DUBOIS, Secretary.

[F. R. Doc. 53-4486; Filed, May 21, 1953; 8:46 a. m.]

[File No. 70-3073]

DERBY GAS & ELECTRIC CORP.

NOTICE OF FILING REGARDING ISSUANCE AND SALE OF COMMON STOCK PURSUANT TO A RIGHTS OFFERING

MAY 18, 1953.

Notice is hereby given that a declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act") by Derby Gas & Electric Corporation ("Derby") a registered holding company. Declarant has designated sections 6, 7, and 12 of the act and Rules U-42, U-45, and U-50 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1953, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law, if any, raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission. 425 Second Street NW., Washington 25, D. C. At any time after May 29, 1953. said declaration, as filed or as amended. may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Derby proposes to offer to the holders of its outstanding common stock of record at the close of business on the date hereinafter set forth the right to subscribe to a total of 47,039 additional shares of its common stock, without par value, on the basis of one share for six shares of common stock held on the record date. Transferable subscription warrants evidencing such rights to subscribe will be issued to stockholders but no fractional shares or script represent. ing interests in fractional shares of common stock will be issued. Warrants for fractional shares will be issued which must be combined at or prior to the expiration date with other fractional warrants so as to permit the subscription to one or more full shares of common stock. Derby will appoint Manufacturers Trust Company, 55 Broad Street, New York 15, New York, as the Warrant Agent to facilitate the issuance and exercise of the subscription warrants and the purchase and/or sale of warrants representing fractional shares..

For convenience of holders of warrants, the Warrant Agent will buy and sell rights (not in excess of five) for the account of warrant holders exercising rights, but only to round out holder's rights to a multiple of six, without any

charge for such service.

Derby also proposes to offer to fulltime regular employees, including officers, of Derby and its operating subsidiaries, The Derby Gas and Electric Company ("Derby Company"), the Danbury and Bethel Gas and Electric Light Company ("Danbury") and The Wallingford Gas Light Company ("Wallingford") employed on the date hereinafter set forth, the privilege of subscribing, per person, for not less than five shares nor more than 150 shares of additional common stock, subject to allotment, out of the portion, if any, of the 47,039 shares not subscribed for by stockholders. Employees' subscriptions are subject to the availability of shares and will be reduced proportionately (based on the amount subscribed for) if the number of shares subscribed for exceeds the number available, except that Derby may determine to give priority to subscriptions of five shares.

The subscription privilege offered to employees will not be evidenced by any instrument, and cannot be assigned or transferred, but subscription forms will be furnished to employees. Derby reserves the right to adopt such further rules and regulations as may be necessary or expedient for the administration of subscriptions under such offer.

Preliminary letters will be sent to all shareholders and employees as soon as practicable advising them of the proposed offers.

The offer of the shares of additional common stock will be underwritten. Immediately after the subscription price is determined. Derby proposes to execute a purchase contract with an underwriter or underwriters in which there will be designated the amount of compensation to be paid by Derby to such prospective underwriter or underwriters for their services. Before executing a purchase contract with any under-writer or underwriters, Derby intends to negotiate with several prospective underwriters in order to maintain competitive conditions and to retain the underwriter or underwriters who offer to act for the lowest compensation. Derby will advise the Commission fully

with respect to such negotiations at a later time.

The price per share at which Derby proposes to offer the additional common stock to its stockholders, employees and to underwriters will be determined by Derby. It is presently anticipated that such price shall be equal to \$2 less than the "average bid" price (hereinafter defined) of Derby common stock on the "over-the-counter" market. The "average bid" price of such stock shall be equal to 20 percent of the aggregate of the bid prices (computed to the nearest even quarter of a dollar below the resulting figure) quoted in the New York Times on the five trading days immediately preceding the second business day prior to the date on which the offer to subscribe is made by the mailing of a notice, prospectus and the subscription warrants to the stockholders of Derby advising them of their right to subscribe to such stock. The mailing date of such notice, prospectus and warrants will be fixed by Derby, and it is anticipated that such date will be as early as practicable after the approval of the transactions proposed herein by the Commission and after the effective date of the Registration Statement under the Securities Act of 1933 as amended.

The offer of said right to subscribe shall be made to the stockholders of Derby of record as of the second business day prior to the date on which said notice, prospectus and warrants are to be mailed to such stockholders. The offer of said right to subscribe shall be made to employees employed as of the second business day prior to the date on which said notice, prospectus and warrants are to be so mailed to said stockholders.

Derby proposes, if considered necessary or desirable, to stabilize the price of its common stock for the purpose of facilitating the offering and distribution of the additional common stock to its stockholders and employees. In connection therewith Derby may, during the period commencing with the opening of business on the day when the price per share is determined by Derby and terminating at the close of business on the next business day thereafter, purchase shares of common stock of Derby, such purchases to be at a price no higher than the last previous sale and to be made through brokers with the payment of the regular commissions, or in the open market or otherwise. With respect to such stabilizing activities Derby will at no time acquire a net long position in shares of common stock in excess of 5 percent of the common stock to be issued. Any shares of common stock acquired by Derby pursuant to stabilizing activities will be included in the amount to be offered to underwriters.

The proposed purchase contract will provide that the underwriter or underwriters will agree that in case any shares of common stock to be purchased shall be sold by the underwriter or underwriters prior to the expiration of 30 days following the expiration of the subscription period for a price in excess of 75 cents per share plus the purchase price

(the excess to be computed before the deduction of any expenses, selling commissions and/or concessions) the underwriter or underwriters shall pay to Derby, in addition to the purchase price per share, a sum equal to 50 percent of such excess, such additional payment, if any, to be made by the underwriters to Derby as promptly as practicable after the expiration of such 30 days.

The proceeds of the sale of common stock will be applied primarily to the payment and prepayment, without premium, of outstanding notes payable to banks, in the aggregate principal amount of \$800,000. The proceeds of the sale, other than the amounts necessary to pay or prepay the short-term indebtedness of Derby will be donated, as needed, by Derby to its subsidiaries as capital contributions in accordance with the Account No. 270 "Capital Surplus" of the Uniform System of Accounts prescribed by the Connecticut Public Utilities Commission providing for crediting any donation by stockholders to capital surplus.

It is represented that no State commission, or any other Federal commission has jurisdiction over the proposed transactions. Declarant requests that the Commission's order herein become effective upon issuance.

By the Commission.

ISEAL 7

ORVAL L. DUBOIS, Secretary.

[F. R. Doc. 53-4485; Filed, May 21, 1953; 8:46 a. m.1

# FEDERAL POWER COMMISSION

[Docket No. E-6498]

IOWA PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

MAY 18, 1953.

Notice is hereby given that on May 14, 1953, the Federal Power Commission issued its order adopted May 14, 1953. authorizing issuance of securities in the above-entitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4502; Filed, May 21, 1953; 8:43 a. m.]

> [Docket No. G-1833] HAVERHILL GAS LIGHT CO.

MOTICE OF FINDINGS AND ORDER

MAY 18, 1953.

Notice is hereby given that on May 13, 1953, the Federal Power Commission issued its order adopted May 12, 1953, assuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4503; Filed, May 21, 1953; [F. R. Doc. 53-4505; Filed, May 21, 1953; 8:49 a.m.]

[Docket No. G-2003]

NORTHERN NATURAL GAS CO.

MOTICE OF FINDINGS AND ORDER

MAY 18, 1953.

Notice is hereby given that on May 13, 1953, the Federal Power Commission issued its order adopted May 12, 1953, issuing in part and denying in part application for certificate of public convenience and necessity in the aboveentitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4594; Filed, May 21, 1953; 8:49 a. m.]

[Ducket No. G-2169]

TEXAS EASTERN TRANSMISSION COEP.

MOTICE OF APPLICATION

May 18, 1953.

Take notice that on April 30, 1953. Texas Eastern Transmission Corporation (Applicant) a Delaware corporation with its principal office in Shreveport. Louisiana, filed an application with the Federal Power Commission pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to dismantle and remove a stand-by com-pressor unit of two thousand (2,000) horsepower from Station 17 on its 24inch gas pipeline near Circleville, Ohio. and to reinstall and operate the same at or near station 1 on its 24-inch gas pipeline at Longview, Texas.

Applicant states that under its existing exchange agreement with United Gas Pipe Line Company (United Gas) Applicant can deliver surplus quantities of gas from its 20" gas pipeline system to United Gas at Casper, Louisiana, and United Gas can and will deliver a like amount of gas to Applicant at Station 1 on its 24" gas pipeline at Longview, on its 24" gas pipeline at Longview, Texas, but United Gas cannot deliver the Gas at Longview at sufficiently high pressure without additional compression. The proposed removal and installation of the compressor unit, as described above, will lower the pressure of the delivery point sufficiently to enable United Gas to deliver its gas into Applicant's 24" line. Applicant anticipates that the proposed removal and installation will cost approximately \$53,650. which Applicant proposes to expend from current revenues.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 5th day of June 1953. The application is on file with the Commission for public inspection.

[SEAL]

LEON M. FUQUAY, Secretary.

8:49 a. m.]

[Docket No. G-2168] LONE STAR GAS CO. NOTICE OF APPLICATION

May 18, 1953.

Take notice that on May 7, 1953, Lone Star Gas Company (Applicant) a Texas Corporation having its principal place of business at Dallas, Texas, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate 1.7 miles of 6-inch gas transmission pipeline and for an order permitting and approving abandonment and removal of 24.79 miles of 16-inch gas transmission pipeline, a short 6-inch tap line, and a measuring station.

Said facilities proposed to be abandoned and removed were acquired by Applicant from Martin Wunderlich and Lee Aikin, and constitute a portion of the Wichita Falls District pipeline system formerly owned and operated by United Gas Pipe Line Company. The facilities proposed to be constructed and operated would enable Applicant to continue to render gas service to its customers on its tap line 71-15. Total estimated cost of removal and construction of facilities is \$122.692.05.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with its rule of practice and procedure (18 CFR 1.8 or 1.10) on or before the 5th day of June 1953. The application is on file with the Commission and open for public inspection.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4506; Filed, May 21, 1953; 8:49 a. m.]

# INTERSTATE COMMERCE **COMMISSION**

[4th Sec. Application 28089]

SUPERPHOSPHATE FROM THE SOUTH TO DENVER AND MANZANOLA, COLO.

APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-shorthaul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below. Commodities involved: Superphos-

phate (acid phosphate), other than ammoniated, carloads.

From: Points in southern territory including south Florida.

To: Denver and Manzanola, Colo.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1286, Supp. 9.

Any interested person desiring the Commission to hold a hearing upon such

application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission. in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

**NOTICES** 

By the Commission.

[SEAL]

GEORGE W. LAIRD, Acting Secretary.

[F. R. Doc. 53-4493; Filed, May 21, 1953; 8:47 a. m.]

[4th Sec. Application 28090]

SUPERPHOSPHATE FROM THE SOUTH TO HILLSBORO, WIS.

APPLICATION FOR RELIEF

May 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-shorthaul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below. Commodities involved: Superphos-

phate (acid phosphate) other than ammomated, carloads.

From: Southern points including South Florida.

To: Hillsboro, Wis.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C.

No. 1286, Supp. 9.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD. Acting Secretary.

[F. R. Doc. 53-4494; Filed, May 21, 1953; 8:47 a. m.]

[4th Sec. Application 28091]

GRAIN FROM MANITOWOC, WIS., TO CENTRAL TERRITORY

APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-shorthaul provision of section  $\overline{4}$  (1) of the Interstate Commerce Act.

Filed by H. R. Hinsch, Alternate Agent, for carriers parties to schedule

listed below.

Commodities involved: Grain and grain products, carloads.

From: Manitowoc, Wis. To: Central territory.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: L. C. Schuldt, Agent, I. C. C. No.

4265, Supp. 5.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W LAIRD, Acting Secretary.

[F. R. Doc. 53-4495; Filed, May 21, 1953; 8:47 a. m.]

[4th Sec. Application 28092]

MOTOR-RAIL-MOTOR RATES BETWEEN CHICAGO, ILL., AND KANSAS CITY, MO.

APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by Middlewest Motor Freight Bureau, Agent, for the Chicago Great Western Railway Company and Plaza Express Company, Incorporated,

Commodities involved: All commodi-

Between: Chicago, Ill., and Kansas City, Mo.

Grounds for relief: Competition with motor carriers and additional routes.

Schedules filed containing proposed rates: Middlewest Motor Freight Bureau.

Agent, MF-I. C. C. No. 223, Supp. 3.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission

in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

George W. Laird, Acting Secretary.

[F. R. Doc. 53-4496; Filed, May 21, 1953; 8:47 a. m.]

[4th Sec. Application 28093]

Liquid Caustic Soda From Anniston and Lensanto, Ala., to Mobile, Ala., and Memphis, Tenn.

#### APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-shorthaul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for The Alabama Great Southern Railroad Company and other carriers.

Commodities involved: Liquid caustic

soda, in tank-car loads. From: Anniston and Lensanto, Ala.,

to Mobile, Ala., and from Anniston, Ala., to Memphis, Tenn.

Grounds for relief: Rail competition, circuitous routes, and to meet intrastate rates.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1295, Supp. 28.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-4497; Filed, May 21, 1953; 8:48 a. m.] [4th Sec. Application 28034]

SULPHURIC ACID FROM BATON ROUGE, NORTH BATON ROUGE, AND NORCO, LA., AND CALVERT, KY., TO EAST PORT, FLA.

#### APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-shorthaul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.
Commodities involved: Sulphuric acid, in tank-car loads.

From: Baton Rouge, North Baton Rouge, and Norco, La., and Calvert, Ky.

To: East Port, Fla.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C.

No. 1357, Supp. 2.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

' George W. Laird, Acting Secretary.

[F. R. Doc. 53-4498; Filed, May 21, 1953; 8:48 a. m.]

[4th Sec. Application 28095]

MOTOR-RAIL-MOTOR RATES BETWEEN CHICAGO, ILL., AND KANSAS CITY, MO.

APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by Middlewest Motor Freight Bureau, Agent, for the Chicago Great Western Railway Company and Pacific Intermountain Express Co.

Commodities involved: All commodities.

Between: Chicago, Ill., and Kansas City, Mo.

Grounds for relief: Competition with motor carriers and additional route.

Schedules filed containing proposed rates: Middlewest Motor Freight Bureau, Agent, M. F.-I. C. C. No. 223, Supp. 3. Any interested person desiring the

Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

George W. Laird, 'Acting Secretary.

[F. R. Doc. 53-4499; Filed, May 21, 1953; 8:48 a. m.]

[4th Sec. Application 28096]

PULPWOOD FROM DURHAM, N. C., TO HOPEWELL, VA.

APPLICATION FOR RELIEF

MAY 19, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by The Norfolk and Western Railway Company.

Commodities involved: Pulpwood, in carloads.

From: Durham, N. C.

To: Hopewell, Va.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD, Acting Secretary.

[F. R. Doc. 53-4500; Filed, May 21, 1953; 8:48 a. m.]